



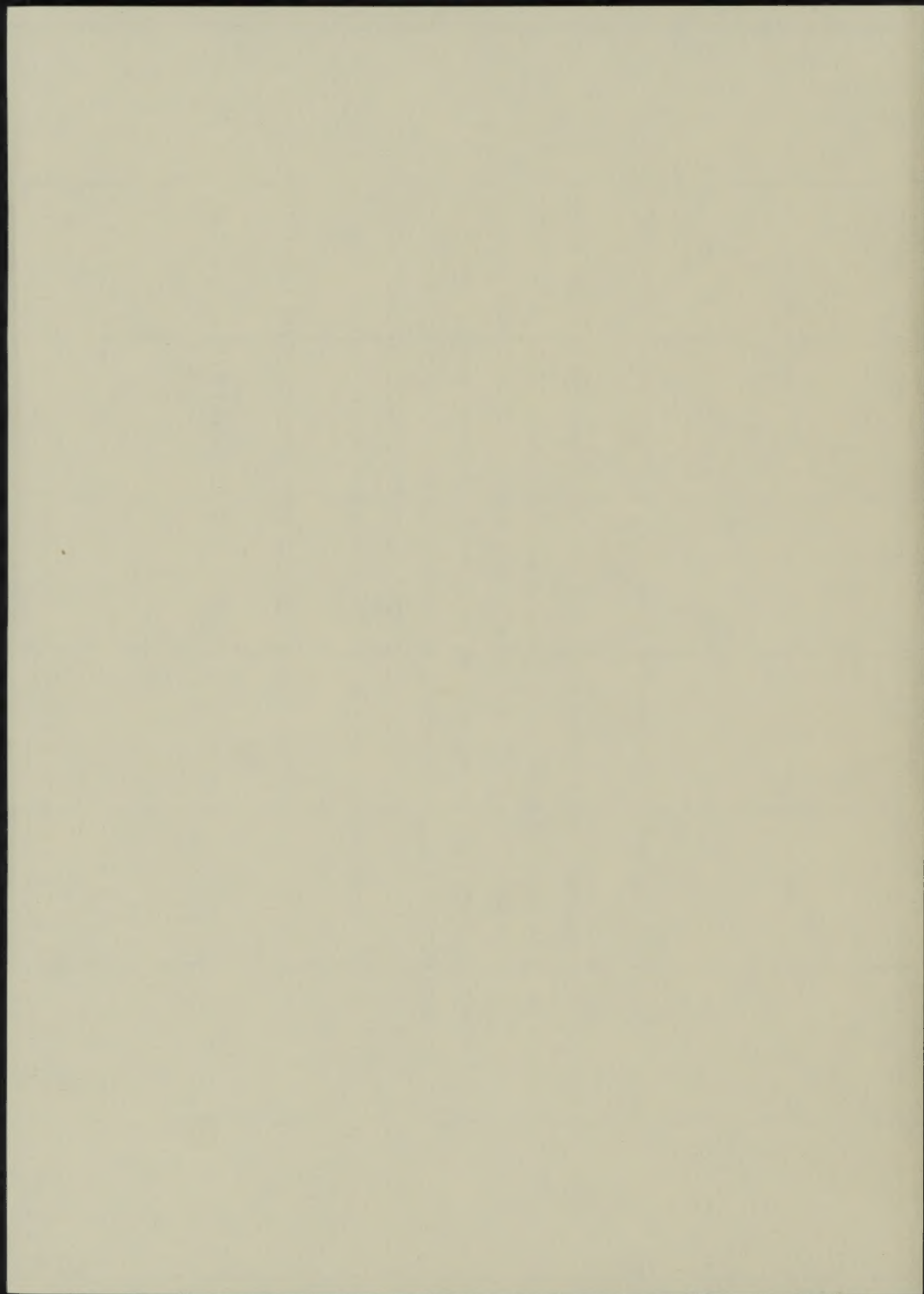
Roger Sherman Baldwin 1793-1863

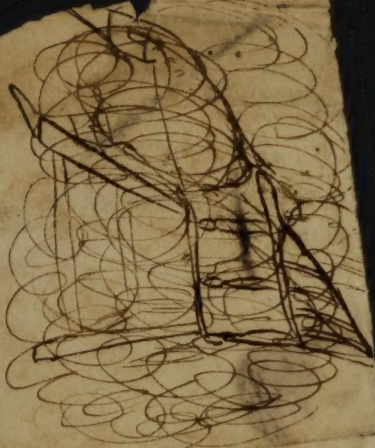
Lectures by Reeve and Gould, 1812-1813

Connecticut Senator and Governor. A lawyer whose name

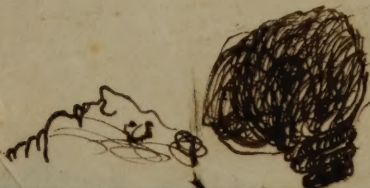
"was in every volume of the Connecticut Reports for forty-seven years", he represented the Africans in the Amistad case of 1839-41. When Baldwin completed his studies at the Litchfield Law School, Judge Gould wrote to his father, Judge Simeon Baldwin: "I restore your son somewhat improved, as I hope and believe. At any rate, no student from our office ever passed a better examination."

(Quotations from the Dictionary of American Biography)





V3 p 12

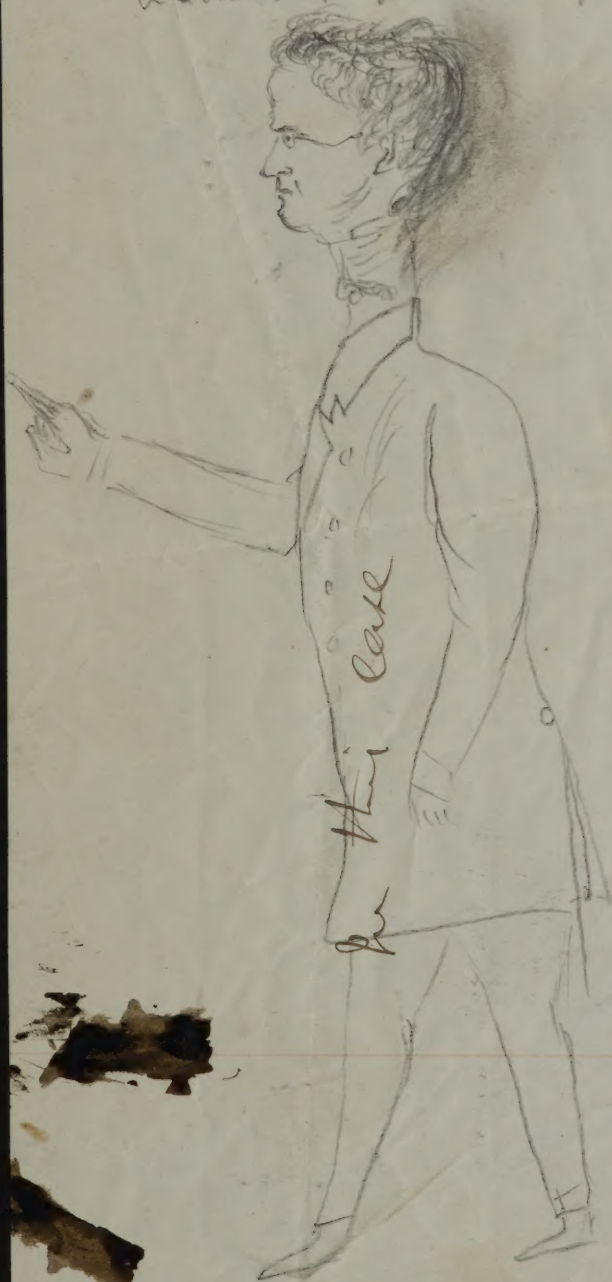


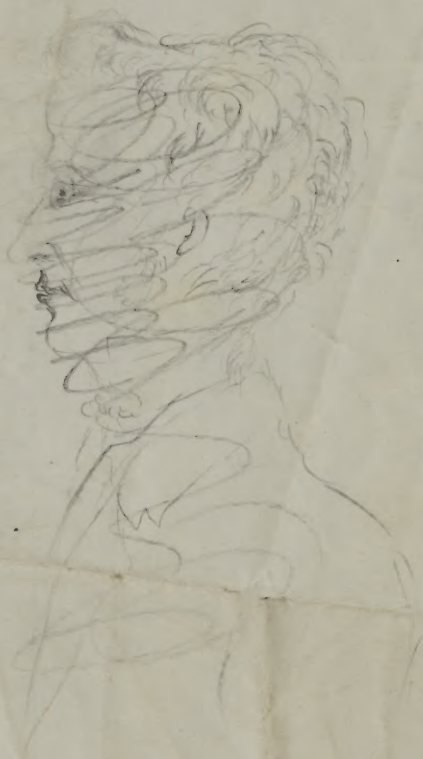


There is a question relative to insur-
ance on a voyage. The expected profits, of the
interest according to the common law merchan-
tile and premium may be added to the sum.
such profits are insurable. There is in
favoring such insurance. The insur-
ance of goods and ships more than the price
of profits. It is first to be premium
valued and open. In open policies
the goods. In valued policies

ce of any kind with an enemy is unlawful
insurance on such commerce is void. There
same insurance, which ~~is appearance~~ ar
ases goods in an enemy's country during
during peace, and had debts which
eases he may insure those goods o
in on the same policy, by another
be void, on the ground of it's be
the enemy. It would seem the
insure property is

Fellow citizens & fellow
labourers. you are the bone
& sinews of your Country.





V, 456

Voted that permission be granted to Daniel Read and such individuals of this Society as may associate with said Read for that purpose to procure and place in the Orchestra of this Church, an Organ for the use of this Society; Provided however, that said Organ is to be procured and set up at the sole expense of said and his associates, to remain their private property, and that the Society is to be subject to no other expense on account of the same, than the employment of an Organist.

And the said Organ shall be permitted to remain at least one year in the Orchestra of this Church; pro

12, 13

What are pleading?

a first stage of writ 2

when is the suit commenced?

here are seven - 2 KB bill of
mending paper

Do with'd decl. if we here together

what is the first stage of Phase 8?

What is declaration?

Lippson did not know me & sent on
bird - a hat would you wear of
the deft before being a, blue?

suppose def. 1. without giving
ex. 1. ?

What are the gen^l divisions of
the study of the

what are dilatory laws?

what are the
ord. 4. ~~in absolute~~ ^{in absolute} ~~in absolute~~
X in absolute

Cause of action ^{Bar} denied - ^{conceded} on estoppel.

2 kinds Guifree - Spec. pl. in air

*I, it ever sufficient testimony
evidence of a fact*

In what way the advantage of
mistakes

suppose a variance between with
and

suppose you are declaring upon
a contract unknown to the Corn-
law - but requires that to be
in writing - must you
writing -

Suppose are a cart required to be used
to be in water?

to be in writing. I suppose on a contract signed at O. L. that writing is required by Stat. to be in writing.

In declaring an appeal bond
is necessary to set forth the
conditions:

Joinder of parties

when? if right violated

suppose the several rights of two
are violated by same act. can they

join?

suppose joint action of one dies.

Or suppose 2 persons speak slanderous
words at same moment.

joint contractors must

suppose one co-defendant dies - is Ex-^{ist}ible

suppose a few.

Joinder of actions

suppose a condition precedent must
have performed

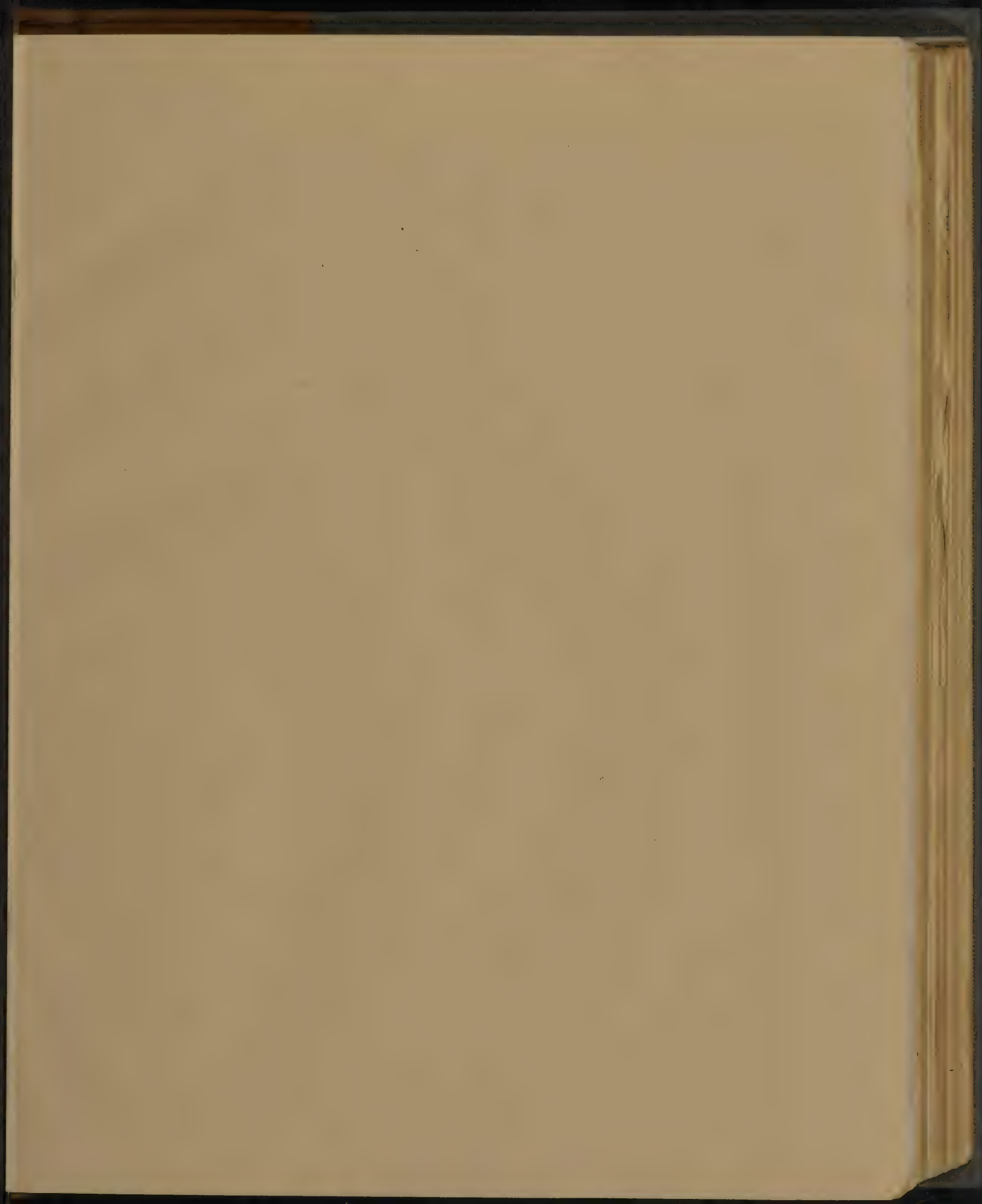
want of cognizance of subject matter

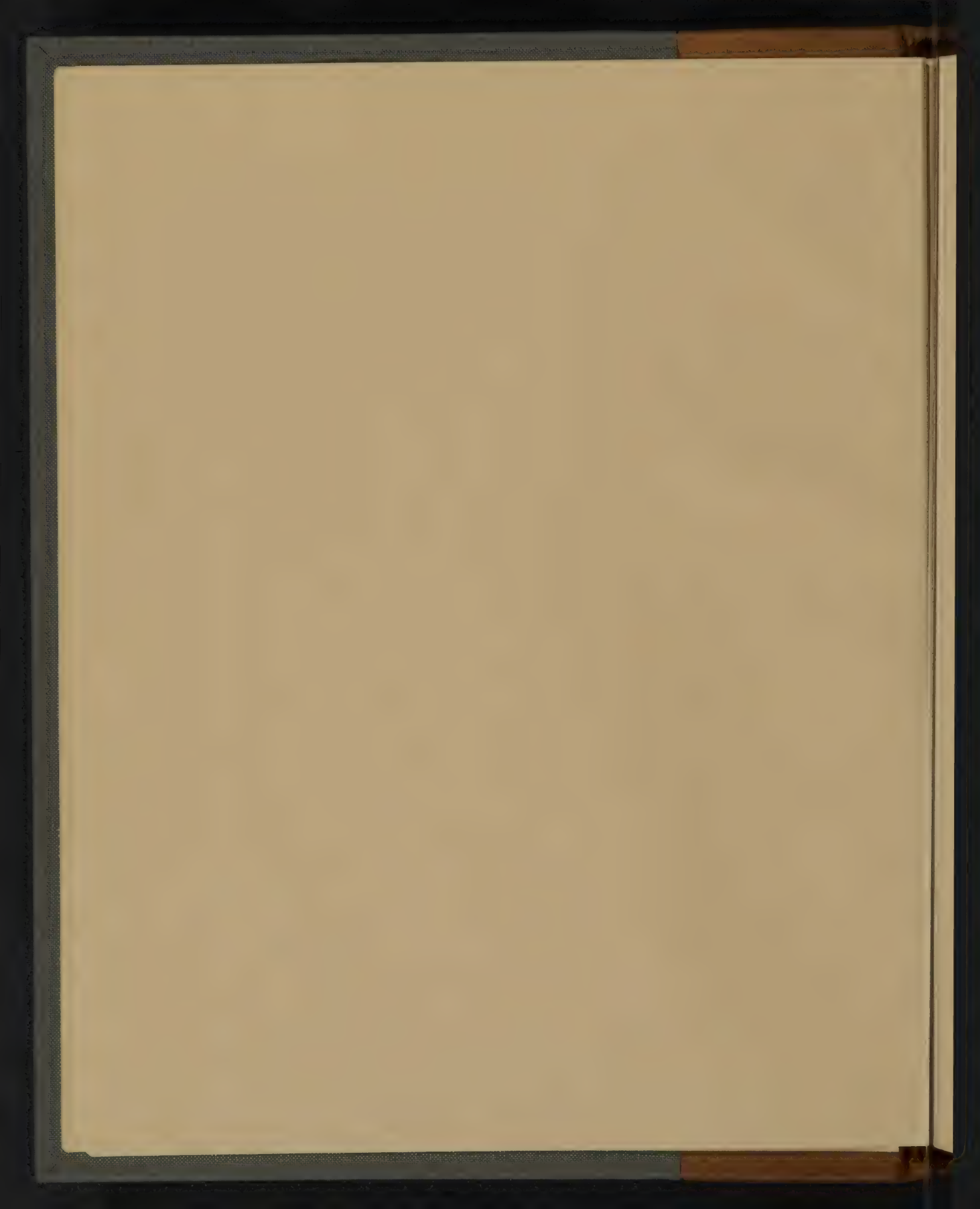
action local - or transitory

Misnomer - want of addition

is misnomer of name - a plaintiff

suppose a sole plaintiff dies - does suit
necessarily abate?









Mr. Baldwin —

8/13.

Office

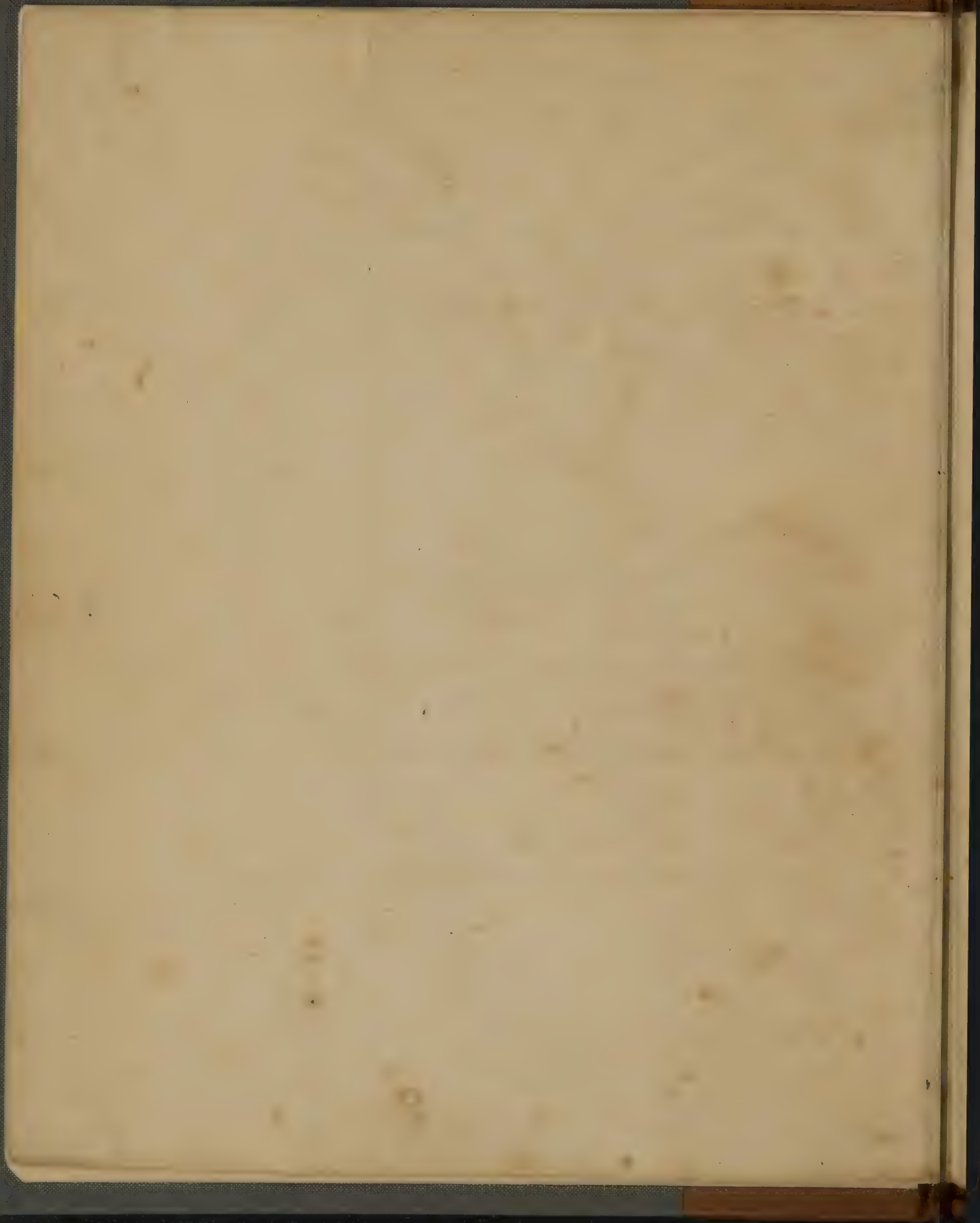
Notes on Law

taken from the lectures of
The Hon^{ble} Sapping Meeve
and

James Gould Esquire
Vol. 1st

Containing the following
Titles; f

1. Municipal Law,
2. Master and Servant,
3. Baron and Feme.
4. Parent and Child.
5. Guardian and Ward,
6. Executors & Administrators.
7. Sheriffs and Gaolers
8. Contracts, and
9. Transient Conveyances



3.

1.

Municipal Law By J. Gould Esquire.

"Municipal law is a rule of civil conduct prescribed by the supreme power, commanding what is right and forbidding what is wrong."

This rule is said to be permanent, and universal. It is so, as far as it extends. But there are what are called local laws, or usages, which do not furnish a rule of conduct for all nations, though they do for the realm.

If it is a rule of general law then it is uniform, and universal throughout the State or realm.

Municipal law differs from the natural law, in this: the latter is a rule of moral conduct; the former, of civil conduct. The one contemplates man as a moral, rational being; the other views him as a member of civil society.

The word "prohibitive," in the definition, signifies that the law must not be prohibitive, but prescriptive. A prohibitive law is inconsistent with the sacred Rights of man, both in fact, and in every example. If a man is committed to law, which prohibits, as he is not law, surely it ought not to be permitted, as a breach of a subsequent law.

Municipal Law.

There is a difference between a retroactive, and an ex-post-facto law. The former is ex-ante, while the latter is ex-post, that is, a retroactive law.

An ex-post-facto law is a general law, which has a retroactive effect. The one is a species, of which the other is the species.

3. Hallam.
186.
1891.

The constitution of the U. S. prohibits the enactment of ex-post-facto laws, but not of such or retroactive laws, as were not local in character. This rule is "reserved" in the Supreme law, in which is inserted the Constitutional law.

Interpretation of Laws.

1. In the interpretation of laws, the words are, in general, to be understood according to their usual meaning, and usual association.

4. Bao. 647.
1. Hall. 59-60.

Not even when it is to be understood as conforming to the constitution of them, among the various of that and or probable. This is the rule with regard to local laws, and in statutes.

2. When the words of the law are ambiguous, the courts must allow to be exercised, that the meaning may be established by the courts. in, in which is extended; as, in some cases the law is extended.

1. Hall. 59
Bao. 647
Hall. 59-60
Bao. 647

and it is also essential to compare the law is given with other similar statutes.

Interpretation of laws.

3.

3. It would be the duty of the courts to be ever ready to have recourse to the spirit & meaning of the law.

4. The effects and consequences of different constructions, are to be resorted to. If an construction would lead to an absurdity, that of course, should be rejected. B.P. 61.
1. H.D. 344.
4. H.D. 652.

5. The great rule of construction is, that the spirit and intention of the law, and that to which all others are subordinate, is that the reason and spirit of the law, i.e. the equity should be considered. B.P. 232.
B.P. 61.

By the equity of the law is meant a construction according to the reason and spirit of it. B.P. 246.
1. H.D. 62.
3. H.D. 431.

Unwritten Law.

Municipal law is divided into two kinds: the lex scripta, and the lex non scripta.

The unwritten law consists of 1. of the common law, properly so called. 2. of statutes, and 3. of certain particular laws, accepted only in particular jurisdictions. These are all customary laws, and constitute the whole of the unwritten law. B.P. 65-67.

The unwritten law, and the common law are not convertible terms. All the unwritten law is not common law — though the latter is included in the former.

These laws are called unwritten because their

188. 64. Original institution is not set down in writing, as an act of parliament. And they all derive their authority from immemorial usage.

1. Common Law.

The common law is a general custom, and is so called, because it is common to the whole realm or state.

188. 68. This is all the history of the common law is recorded for its support, upon which statutes have been immemorial — i.e. from before the time of Richard I., which is now called from the accession of Richard I. to the throne of Edward I.

But if the original institution of the common law is not set down in writing, — where, it would be asked, is it to be found? For the records of Edw. I. in Books of Records, in judicial decisions — such as Decisions of the Council. — Decisions of the King, Decisions of the Court, Decisions of the Law, or Decisions of the Court, but more evidence of it.

188. 53. 70-1. Hence it is that a decision on a given point is often uncertain — but if it was the law itself, as a rule of parliament, it could not be uncertain in the law.

A precedent is a former decision, upon the point in question, i.e. it is evidence of the law.

Precedents are always to be followed in subsequent cases unless they are per se subversive, or unjust. i.e. in the same country, in which they were made. It is not to be overruled because the reasons are not apparent. It must be shown by the objects to be attained. It will more than make up for the whole system, and consequently of the law, by leaving nothing to the discretion of the Judge.

But if the original institution of the common law is not admitted in writing, and if books are only evidence of it. It may be asked, How did the common law come into existence? At what time did it originate? It was built up, and established by, Ch. of Justice.

Now then, can this be said to fall within the definition of municipal law which is said to be "as prescribed by the legislative power?"

The truth is the legislative power, by modifying, or to enact the transmission of the common law, does give its sanction to it.

I have remarked, that the common law is supposed to have originated before the time of legal memory viz. the accession of H.C. I. Those branches of the common law, which have been since built up, are in local practice, sup-

supposed to be evidence of what the law was
at that time. see

2. Particular Customs

Particular customs are local customs, and are
supposed to be the remnant of the law preserved
in distress times.

As several times arises upon a particular
custom, must specifically plead it. The existence
of the custom and the fact that the case in
question is within that custom, must be proved.

But the judges are not to take notice of these ex-
officio, as at the general bar of the court.

And as the existence of a custom is a positive
fact, it is not to be tried like other mat-
ters of fact, by a jury. Under its sanction, however,
these facts are recorded in the same court
in which the question arises, and even there,
the question whether the thing is originally done
within the custom is to be tried by the law.

It is true that customs are to specifically be
pleaded and tried by the jury, General and Particular
Customs in England ex officio.
If their existence, their ex officio, take notice:

Blackstone says, the law recognizes customs
particular customs. But the law recognizes
is not a particular custom, for, though it is

3 B. 416

B. 75

3 B. 416

407

Particular laws, in particular jurisdictions.

The common and Statute laws of Eng^d as far as they have authority have derive it from a common sanction. But they are not not made to be acted by our S^d, unless they are expressly or impliedly adapted to the situation of our Country.

Some have said that our Laws are well as given that our Laws are not impliedly adapted to us — as all their Laws respecting the royal prerogative, the immunities of the Clergy, the hierarchy. Lawyers and of the question have been asked at the S^d, which are impliedly adapted to us and our Laws need to be changed in it, as much as the Laws of North^{am} or West^{moreland}. Because it has been adopted and acted upon, as our Laws in the case of our country, in this country. Authorities since the revolution, being such evidence of what the common Law was, has equally binding as there before.

I question now whether we, in this Country, now have a common Law as we have, still not given that at Eng^d? Upon this, I observe, that as far as the common Law at Eng^d is impliedly adapted to our situation, we must have a common Law of our own. This is impossible, for without a Law of our own, we cannot have a common Law of our own. We have not the same Law as at Eng^d.

9.
Can we, in this country, have a common law of our own?
For the Statute law is in express of
practical application a complete consequence
in the simplest & possible sense, without the aid
of unwritten law. The Statute law is a positive
rule which cannot be altered & it is
just as good. The unwritten law, is a custom
of the country, consisting of a collection of doctrines
and principles which have been received and
recognized as such in all the experiences
for which it is necessary to provide. Suppose
the English common law to be swept away
and that is a decision that we have no com-
mon law, a new one. What is the consequence
of this decision to him who is involved in a
dispute? How are these disputes to be con-
sidered? He can action it is said. But what
is an action? For this, we must refer to
the common law. What action will you bring?
Then again, you must refer to the common law.
Suppose the Statute provides that the action
is traverse. What does traverse mean by traverse?
The Statute law must inform you, he has
given the subject a traverse through all
it branches. But doesn't that act this is
a condition - now are we to bring our ac-
tion? what traverse will you face? Can
we once after proceed? It must be a yes.

Can we, in this country, have a common law of our own?

appeared, that it would be impossible in a 'Statute' to provide an answer for all these:

So far as the Com. Law is abstract or universal, we are not bound to accept it. There is then, some substitute is necessary for that which is rejected.

But to both these propositions, there is an objection, that common law, to be binding, must have originated from before the time of Royal injunction. Now all will agree that this time of legal memory was arbitrary, selected; and it is emphatically inapplicable to our situation and therefore, must be rejected, as occasion the acknowledgment of all in other cases. This period of legal memory was adopted only 30 years after the accession of Rich. 2^d and therefore, it would seem, that an usage of equal length, and then to be rejected, is absurd.

But I hold the objection, which is made, on the ground of immemorial usage to be absurd, and frivolous. In the manner in which it is urged, it is a rebutted proposition, merely, — a beginning of the question.

The question is, Can we have any principle of P. L., distinct from the English? The answer

Can we, in this country, have a common law of our own? 11.
 There is, no. Because the rule and except
 will not be as old as the English common
 law requires — It is it will not have been
 made from before the time of Rich. I.
 This takes it for granted that we are not ad-
 verting to make from the time, or we are then
 too old, and is of course, as I before said
 a petitio principii. This is rather a matter
 of curiosity than of great utility. I know, of
 course, no succession in the 2^d of the States
 and of the U. S. that we in any sense have a com-
 mon law of our own.
 (# # #)

Lex scripta or Written Law

The Statute-law requires no organiza-
 tion. It is a rule of conduct prescribed
 by the Legislature.

The ancient English Statutes are said to be
 binding upon us, as far as their common law
 law is — i. e. it is said to be prima facie, and
no. For our ancestors brought with them
 all the law which was then in force in their
 territories.

In some of the States in the Union, the word

Written law.

body of the English Statute law has been accepted by imitative act. In France we have no such act. Here it seems to be agreed that their Statute enacted since the emigration of our ancestors, are not even prima facie binding on us.

Kinds of Statutes.

Statutes are of two kinds: Public, & private. A public Statute is one which respects the whole community or realm. A private Statute respects not the whole community, but particular divisions.

This distinction is not always obvious in its application. Most public Statutes, so literally, respect the whole community—as, Acts of Trade, & of Limitation, &c. These are not made with reference to a particular part of the state, or class of men, but to affect the whole community. In cases of this nature, there is no distinction.

But there are some cases where Statutes relating immediately, to a class of persons, namely, are held to be public—and in other Statutes relating to a class of persons, are held to be private. The rule of distinction in these cases, of the kind, is this: If the class of persons, to whom

Public and private Statutes.

13.

The Statute relates, according to what is called a person the Statute is public: if to a species, or individual it is private.

When the class to which the Statute relates is so general as to admit of a substantial division, it is a general. But when it will admit of a division, non into indivi- 42. 76.
1 M. 21
iduals, and not into substantial classes, 42. 76.
2. 100. 639
2. 100. 639
154
100. 120
781. it is a species. Now a Statute relating to all men is public. But a Stat. relating to all taxes, is private. A Stat. respecting all officers qualified to wear a sword is public. But a Stat. relating to all sheriffs, or all constables, is private.

That which may be a person with reference to a lawyer class, will perhaps be a species with regard to a man in one.

Now Stat. which regard the king is a public one. 42. 77.
2. 100. 639
154
100. 120
781.

And a Statute punishing a persecution to the king, or to the state is public. though the persecution is inflicted on a species only. 2. 100. 639
42. 76. 640.

But a similar principle, even Stat. which concern the public revenue is public. Though it may provide that the revenue of revenue of which it speaks, shall come from a species. 100. 120
781.

A Stat. may be in fact public, and in fact private. 42. 76. 640.

Declaratory & remedial Statutes.

14.

All Statutes are again divisible into two classes, an Declaratory of the C. L. and such as are remedial of the defects of the common law. This division is co-terminous with the former.

Procedural Statutes are made to meet some want of the common law, and wherever it has been. Some Statutes are made declaratory of the meaning of former Statutes which are ambiguous.

Remedial Statutes introduce some new rule of law, by adding to the superfluous or supplying the deficiencies of the C. L.

The Statute concerning the tenure of land, seems to be declaratory, it is an ancient law, though it involves an assumption. So also the Statute

15. 16.

13. of 27 E. 2. so far as it does not affect common law consequences are declaratory. But Statutes of limitation and assault & battery are remedial.

Penal & Beneficial Statutes.

All Statutes inflicting a penalty or punishment, of any kind, are called penal. Statutes, not inflicting any penalty or punishment, are called beneficial.
1. Stat. 450.
2. Stat. 415.
3. Stat. 126.

A penal Statute, then, is one which inflicts any punishment, to which penalty is synonymous, in its most extensive signification.
Stat. 415.

In structure, all Statutes receiving sanction seem to be in the nature of penal Statutes; no Statute, however, is so named. But such are not called penal Statutes - though they may operate penally.
Stat. 212.
Com. N. S. Sec. 1.
Stat. 125.
Stat. 415.

But Statutes giving cost of suit are held to be penal. Cost was unknown to the Common Law, nor would any now be recovered, had they not been introduced by Stat. in lieu of the ancient amercement, which was in the nature of a penalty. Cost was first introduced by C. D. 1.
1. Stat. 511.
2. Stat. 657.
3. Stat. 205.

An action brought by an individual to recover a penalty in his own right, imposed by a Stat. is not a penal action - though the Stat. is clearly penal.
1. Stat. 310.
2. Stat. 415.
3. Stat. 257.
4. Stat. 125.

Statutes, in respect to their operation, are either prohibitive or permissive. This distinction is an useful one in the study of some Statutes which are prohibitive as to, are prohibitive and permissive.
1. Stat. 511.

Every Statute commences its operation from

5. From what time, do Statutes begin to operate?

¹⁸³²
¹⁸³³
Not from the time when they are made, but from the time when they are made known to the public; unless some other time is specified, for its commencement. For the whole period of the duration of Parliament, as of a State, is a continuous and undivided period. Hence, it must happen, that there will be a period which will be in existence, in which the Statute is in operation, but the not in force period - will be a short one.

If two Statutes are made in the same session, or in the same period - as time being fixed, for their commencement, it is said, neither has the force of the other. But were the time fixed, and there was a ^{short} interval in the Statute, each would operate for ten days to the other. But the better opinion seems to be that the one Statute, in point of fact, will repeal the other, as far as the operation is concerned.

The commencement of the Statute law that a Statute commences its operation from the day of the session has been explained in Booth, and the reason that each act must have a retrospective operation it seems not to be definitely a position.

Construction of Statutes.

17

The construction is according to the meaning which the enactment of the statute is intended to have. It is the intention of all the cases, that the law is to be construed to the construction of Statutes.

Three main rules are to be observed—
1. The 1st rule—2. The 2nd rule—3. The 3rd rule.
If it can be ascertained what the 1st rule was, the object of the case, with more or less is discovered. If the 2nd rule is ^{inquired} still, then it is added in order to the 1st rule—which rule he should be able to find the 1st rule, as to 1st rule, and reverse the 1st rule. But a consideration of these the 1st rule may be as to be considered, & this is a rule. The 1st rule is 1st rule.

The 1st rule is 1st rule, with respect to the intention of the law, in general, as to be determined, as to the construction of Statutes.

It is a rule of the common law that 1st rule Statutes are to be construed 1st rule, i.e. according to the 1st rule to the 1st rule. The 1st rule of the ancient 1st rule in the 1st rule has been 1st rule & 1st rule in modern times.

The 1st rule of the rule is that 1st rule Statutes are to be construed 1st rule, as 1st rule the 1st rule—1st rule 1st rule.

As to the 1st rule of this rule, there is

Construction of Statutes.

person shall not be adjudged to be within the
 Leach. operation of the Statute, unless he is within its
 297.310. letter of it. And, even the second branch, a
 person, though within the letter of a Statute, shall
 not be adjudged to come under its operation, un-
 Leach. less he is also within the narrow spirit of it.

...and ... after ... in a
 ... not ... (the ...)
 ... in ... and ...
 ... of a ...
 ... have been ... within the
 ... which ...
 ...

These rules are all founded in the benignity, with
which indeed I have co-existed since I travels.

The intention of the Legislature is not to be disregarded, in construing Statutes upon the subject. The truth is, the intention, when apparent, ought always to govern. & This benign mode of construction, is nothing more nor less, than an evanion of the law. The will of the Legislature, when ascertained is the law.

The rule of ship construction, as regards the subject, has not been uniform and somewhat loose.

Penal laws of one state, not noticed in another.

*Widener, 79.
1. B. N. 123.
3 P. R. 733.* The offender belongs to that state, whose laws are violated, and against which the offense was committed.

And, on the same principle, it is that there is no double jeopardy in this regard, between the state, & the U.S.

*U.S. v. Kirtland
2 Johnson
for a libel.*

For this reason it is that those common law offenses, which have been introduced in the U.S. Courts, for offenses, as libels, against the president of the U.S., which were punishable under the laws of the state have been abolished.

And on the same principle, notwithstanding a train of decisions in the Ex parte & Ex parte Lafford, that a person committing theft in one state, and carrying the goods into another,

*2. M. R. 14.
1. M. R. 116.*

*contra
2. Johnson v. R.
477. 479.*

is not punishable in the latter. There is no analogy between this case, & that, where a man steals goods in one country, and is punished in another where he was taken, with the property stolen. For, both countries are under one sovereign jurisdiction, and therefore, the offense is continually committed by the felon, wherever he goes. But in the other case, it is not in the

law of the index of one state, to accept the same reason, with regard to a theft committed in another, for as index, they cannot know that the act of taking the property, was theft in the state where the property was taken, & then of course, they cannot say it is not a libel in the state where the offense was committed.

Penal laws of one State not noticed in another.

22/

That the doctrine published in these sermons, would in other hands be viewed as in the highest and most dangerous manner. Suppose, for example, an
the case of Massachusetts, Thayer was permitted to
do as a pecuniary benefit. That in doing so, the
Church would be weakened. And under these circumstances,
if a man were guilty of property in Thayer's case, it is taken with
it in power. He must have be subjected to a capital
punishment, for an offence which even committed sub-
jected him only to a pecuniary benefit!

Again, if these accusations are correct, it cannot be claimed that a conviction of perjury for the offence in one State will bar a prosecution in another. So that if a man has stolen a horse in Maryland, and, in order to effect his escape, has travelled thro' the Union so as to become liable to conviction of perjury, not once only, for his offence, according to the established principles of the Federal law, he is arrested, but in every State thro' which he has passed until perhaps he is arrested in his career, under some law more severe than the rest, by the hand of the public exonerator!!!

Construction of Statutes.

never written not to be understood as a rule,
but only as the Statute, but only by construction.

When a Statute enables a Ct to do a matter
of interior, to a fact, the Ct is bound to do
it in all cases falling within the Statute. The
enabling clause may be so worded as to
be imperative. Then the Act may be which
enables the Ct to enact acts in certain cases, ^{2. 267}
has been construed to be imperative upon the Ct, ²⁷⁴⁻²⁷⁹
¹⁸⁹⁸

This holds in those cases where the fact is
clearly a matter of interior. For the Chief
of Philadelphia, referred, consequently to remain
judges on the joint advice of both houses of
the legislature, which he was empowered to do.

A Statute, taken as a command or direction
only, is to be construed strictly (as Statutes of limita-
tion). In such Statutes advice the rights of ²⁸²
the subject. In fulfillance of this rule, it has been
always advised in law that where even
where it is concurrent with fixed law is not
bound in the Statute direction the other action.

The words of an act statute are imperative
to be construed strictly as used to be used ²⁸⁴
in construing it. It is construed in any
case where it is used.

Statutes which are partly perpetual - partly repealed
as to its construction strictly as to the present

Construction of Statutes.

fact, & intention, as to the consequence. This is
Plow. 57. illustrated in the accusation on the Part of the
7. 55. P. 2. about consequence. That part which acts upon
1. 18. 20 the person, is construed liberally: That which
acts upon the offence, strictly.

The different parts of a Statute are to be so
1. 18. 47. construed that the whole, if possible, are to take
1. 18. 89 effect. But where there is a saving, to be re-
served to the body of the Statute, that saving
is void.

3. 18. 49. The rules, by which Statutes are construed, are the
7. 55. same in Equity, as at Law: Though the maxims of
1. 18. 22 Equity are more implied, than at Law.

Repeal of Laws.

All Laws written or unwritten, are repealed, when there is a repealing Act, or a former Law, the former is repealed, pro tanto, by the latter. And for this reason, when the former Law, & the latter Law, suppose each other, the former Law must yield to the latter, in the same

2. 2. 11. 15 manner as in old Statute yields to a new one.
6. 11. 2. 107
1. 18. 27 If the latter part of a Statute is repealed,
1. 18. 27 to a former part, the former is repealed, as far
as the repealing extends.

From the general rule, above mentioned, it follows
1. 18. 90 that a clause in a Statute, enacting that it shall
1. 18. 27 be repealed is void. Repealing clauses are
not to be put up the heads of its enactment.

Report of Cases.

The issue however, does not involve a refusal by Co. 63
implication. The defendant in the latter case
should be able to show in court he received
notice with the former.

It is said in the Books that affirmative
Statutes do not abrogate the common law. <sup>Co. L. 111.
115.</sup>
This is not true. Affirmative Statutes may, as
never not abrogate the common law, as the same
subject. The distinction between affirmative
Legislative Statutes is made other words of Laws.
pal.

Where a Statute gives a remedy in a case, in <sup>2. Penn. 803.
303.</sup>
which there was a remedy at Common Law, it does
not imply a repeal of the common law. <sup>Miller & Taylor
"Copyright."</sup>
with the two concurrent remedies. The Statute
remedy is called cumulative. Instances of this
sort are numerous. A leading case on this sub-
ject is that of Miller & Taylor regarding letters
or property.

If a Statute inflicts a higher or more punish-
ment for a given offence, than is inflicted by an old
Statute, the older Statute is repealed. <sup>Leach.
252.
Pur. 2026</sup>
many instances of repeal. For here is a law
declaring that the former punishment was
too high, or too low.

If a former Statute inflicts a lower punishment
than was inflicted by the common law, the rule <sup>10 Mod. 377
4 B. & C.
2026.
2. Penn. 30</sup>

Repeal of laws.

rule of the common law is repealed. I do not how-
ever find it said even in the books, that when
a general Statute impairs a higher privilege than
the common law, that the common law rule is
repealed. According to the practice, both in Eng.
and in this country, proceedings, notwithstanding
have been brought at Common Law.

2. How. 39. It is said, that an affirmative Statute does
not repeal another affirmative Statute. This is un-
derstood. True. Repeal, or not, is the criterion.

The distinction which has been taken with
regard to the repealing operation of Statutes, was
not intended to apply to those, which contain ex-
press provisions of repeal.

4. Bac. 558. If a repealing Statute is itself repealed, the
original Statute which was first repealed is re-
ceived. In the other case, if a Statute which
has been repealed is received the repealing Statute,
is repealed, in implication.

However Stat. is repealed, and acts some con-
sideration before it was repealed, concerning subordi-
nate.

207.
4. Bac. 578. It is said in some of the books, that if a Statute
clears a privilege and to be made, acts some are
all the former are not warrenable. I sub-
sequently Statute has no power to supersede from
the authority of a former one.

Review of cases:

When once a contract is made it is not to be dissolved by a statute
which makes no provision on the subject, to continue
as for a limited time, the former Statute is not
of course renewed at the expiration of that time.

I have already observed that as a general rule,
Statutes cannot have a retroactive operation.

Now, if a Statute, after being enacted, is re-
pealed before judgment and a new law made
on the subject the offence is not punishable
under either unless the latter Statute contains
a clause that the offence shall continue in
operation as to all offences committed before
the new one was made. Several remarkable
instances of failure of opinion in this manner
have occurred and are permitted under the new
Statute, now that it was not in existence at the time
of the offence being committed: nor can the be
permitted under the old, for that in most cases
in existence.

If a document is made to secure a debt
which is caught at the time but which is made
unlawful by a subsequent Statute, the covenant
is annulled. This however, is not a retroactive law
in the strict sense of that term. The law is made
with a different view of it happens to be a con-
sequence of it, that a former contract
cannot be performed without violation of provision.

27

2. East. 205.

Bath. 45.

Trinh. 157.

1. North. 59.

Dr. L. v. Lord

well. 1818

by 4. L. v. L.

other

1818

2000

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28. To inform citizens not to commit acts which
22.2.90 is an act his duty, by a subsequent Statute, this
2.11.90 enactment is annulled. If a citizen has con-
sented to live with the nation a certain time &
during that time, his services are required in
the State, in the militia, &c

Feb. 9th. Your covenant not to do an unlawful and
a. State expressly in writing that as it has not done,
nor annul the covenant.

If a contract executed before the Statute is made while the Statute is in force, a subsequent repeal of the Statute does not give validity to the contract, in that contract was made before its repeal.

18. 12. 65. One more of Robert's Thompson which was repeated
in the year 1866. If a note remains within the
provision of that act was made earlier than, it is
no better case, since the repeat.

§ 10. The non-performance of a contract is made ille-

Jan 28th. In a discussion bet. what it can do in part.

The recorded time is H.C. ... Facts given.

Art. I.
 All laws impairing the obligation of contracts are void.

Contrary to reason, as to the divorce law is said.

This position, I conceive to be unsoundable.

The legislative enactment is law which is valid, as
in fact, I know of no power in the Acts, so strong
the obligation of that law. I do not think that law.

Legislator made this doctrine in one part of his con- 8 Co. 118

stitution, I conceive it is in another. Hall 44

True, the power of the legislature is paramount
to that of the constitution.

I have indeed seen a case a question, in the

State of New York, where the question was decided

I cannot conceive how the question can ever have

arisen. If the Judges, who heard it, is

expound & enforce law cannot decide upon

the unconstitutionality of law, we are bound to

assume them, the constitution is gone. The

constitution is part of the municipal law, 27

and is paramount to all legislative acts. 293

It is no more significant in character than the con-

stitution, with the constitution, then this is

in comparing a subsequent statute with a pri-

or one.

If a statute makes a new law, concerning an

an old offense, it appoints persons, in order to

execute it, still the jurisdiction of the legislature

is not extended by it.

and if a statute makes a new law, concerning an

Powers created by Statute.

31.

not sworn to the other, on the death of one. See 11 Geo. 2. c. 36.
must survive in the same name.

But if the power conferred is of a public nature,
it is several, as well as joint. Suppose, then, that
by a public act, A, B, & C, are named commissioners.
If A, B, & C, die, the power passes to
D, E, & F, named, when the power first was
granted, is of a public nature. The act of the majority
joint - (all being present) is the act of all. But
if all are living, all should be present.

In response to Constitutional, the rule is, that the
majority of copartners present may bind the
whole, however small may be the number. —
all were unanimously bound, to attend. 8 Geo 2 a ma-
jority of the whole would not bind.

Of Phrasing Statutes & the mode of prosecu- ting upon them.

To phrase a Statute, is merely to state the fact which
brings the case within it. It is, at least, in law.

indeed, to state the provisions of the Statute, &c. 2. 11 Geo. 2. c. 36.

If the act, in phrasing it, would frustrate the Statute
of limitation, all that he has to do is to phrase non

apud & it infra ex terminis, & need say no more.

What about the Statute? No if he cannot find the

statute in Printed & Revised, he has now to find

that there is not a repeal express in words of the statute.

Common upon a writ, is admitted upon writ, and it is admitted in our opinion, as it is in the words "against the force of the Statute," or "in violation of the Statute," &c.

Positive a statute, is a direct law, and it is given in positive into positive. There are other compounds, in our text-book.

Some times, Statutes are passed by positive law, which is a law in positive nature.

The first rule of law is that, of public Stat.

1. No. 86. after justice, we discuss the date of office, &c. 10
Co. L. 236.

4. No. 76. That there is no need of setting out the Statute.

10. No. 57.

1. No. 38.

That of a private Stat. the proper cannot take notice, unless it is specially passed, or set out on the record.

It is true, however, unless we Stat of pleading, &c. 5. 44. a private as well as a public Statute may without pleading be given in evidence, unless the general rule. But here, as well as in Co. L. it is shown to be founded upon a private Statute, it must be specially pleaded or set forth in the declaration.

2. No. 38.

28. No. 38. upon writ in writ. The usual Statute is given.

4. No. 76.

10. No. 57. a point of the general law of the case, which the law cannot take notice, when the facts which bring the case within the Statute are set forth.

Pleading Statutes.

The recital of a public Statute is, in some cases, fatal even after recital.

33.
L. Rep. 382.
Camp. 474.
Cr. 62.
245.
276.
2. 188. 99.

It is said however, that the recital of a public Statute will be void or voidable, if in some material part.

3. Cr. 276.
659. 186.

The true rule however seems to be, that the recital of a public Statute will not be fatal, un-

less the party has himself up to the Statute, by words of reference, as by the words "contra fermum statu predictu."

L. Rep. 382.
Green. 211.

2. Mansfield says, in such case, he will bind the party to that Statute. But if, 2. Mc Nat.

no word of reference is made, predictu the judge will, ex officio, take notice of the true Statute.

510.
188. 90.

This seems to be the rule, whether the recital is in a good material or not.

But the recital of a private Statute, will not be fatal, after recital, or even after a recital.

3. Atkinson & Co.
2. 188. 90.

The party may take advantage of the recital in Staden's new trial record, or by

2. Mc Nat.
510.
188. 90.

parading it and specifying, as by expressing it, and reciting the Statute that, then reciting.

188. 556.
2. 188. 90.

There are the advantages after the recital of the recital of a private Statute.

But even a public Statute, when it is used for the purpose of reciting a specific man in particular cases, i.e. the fact in the case within the Statute must be specifically exhibited.

Pleading Statutes.

35.

It is a general rule, that in pleading upon a public Statute, it is not necessary to count up all them.

In this rule, however, there are exceptions.

1st If there are two concurrent statutes, one made by Parliament, and another by Stat. L. who founds his action on the Statute, it is said, must count upon it. & he it will not be necessary, in which, his action is founded, or rather, it will be taken to be brought and to Law.

2^d In cases of transgression, it is necessary for the transgressor to count upon the Statute, the Statute is a public one. This is necessary, says Lord Ellenborough, because it has always been so.

3^d If a public Statute gives a new action, it is necessary to count upon it. The rule, as laid down in the books, that it must be recited. This is never necessary.

Thus the action of waste to recover the land, in which the waste was committed was not known to the common law, and given by the Stat. of Statute. This Statute must be counted upon, in pleading it.

But when a Statute gives a new remedy, or a new case, he who pleads the Statute need not count upon it.

The action of assumpsit, Statute where the action is not a new one, and where there is no Statute remedy,

Blending Statutes

it is not sufficient then, to count upon them.
 If the Statute creates a right, or a cause of action
 only damages for violation or neglect, it is not
per se - It gives no cause of action - & then is, by
 implication, no common law remedy; & therefore,
 it is not necessary to count upon it.

Case 182.

Case 212.

The rule is the same, when a Statute, not framed,
 prior to right, & leaves it to be enforced by the Com-
 Law.

Now Statute prohibits an act & another inflicts
 the penalty - Both must be counted on. For one
 alone does not furnish the remedy.

Case 181
 235.

An offence may be said, in some instances, to
 be against both the Common & Statute Law. But
 this must be in different respects.

Case 22
 Case 282.

When part of a trespass, consisting of a number
 of connected acts, is against the common law, &
 part against the Statute only; the connecting link
 "contra commune Statute" are to be referred to the
 latter part only. This is the case in most of the pre-
 sented cases under the heading Common Law.

Case 166.

If a temporary public Statute has expired & is
 continued in a subsequent ^{one}, & the same requires that
 the law be counted upon, it is not to count upon
 the former - without reference to the latter. The for-
 mer only concerns the law, & provides the remedy.
 To.

Pleading Statutes &c

37.
 If, in a transcription, you are clear at common
 law only, the inclusion should be mistake com-
 mitted by omission of part of the words, con-
 sidered as statute will be corrected, as supple-
 ment. I apprehend, this is only true after con-
 sideration, or upon general assurances: I not upon
specific assurances.

I only in particular note, to be observed in
proceeding upon Statutes, is that exceptions in
the enacting clause, must be noted— the
omission of this is so in curable a defect, that
nothing will aid it.

1. Am. 158.
1. R. 141
5. R. 141
7. R. 141

On the other hand if the exception is in a
distinct separate, or substantive clause, so that
it does not enter into the substance of the
sentence it need not be observed. The most
scriptural example, to illustrate this rule, is to be found
in our text. regarding our relation to the world.
which involves not even the least "except works
of mercy or necessity." This exception must be re-
served in the injunction. But the subsequent pro-
viso, in the ii. limiting the time of pro-
pitiating the conscience, need not be noted, in the
prosecution.

There are all the same sort of substances
resembling, and in B. L. are in fact, either of
them easily preserved. This is the case, G. H. H.

Pleading Statutes, &c.

39.

But, when the particular mode of proceeding is ^{2. Dash 225.} ^{4. 2. 225.} prescribed in a separate, substantive clause, the usual rule does not apply. Any proper civil law proceeding may be pursued. There is much authority in the cases on this subject. The rule is, however, I can discern, for the restriction is, that the offence & the remedy in the former cases are so blended in the Statute, that they cannot be separated.

If, then, which is prohibited by Statute, however, was prohibited before, at common law. The common law proceeding may be pursued, even though the Statute prescribes another mode, in the prohibition or restricting clause. Now, in this case, there is a remedy in dependence of that provided in the Statute, which the Statute does not expressly take away. It then follows, namely,

That Stat. creates an offence, & gives no remedy, the common law will bind it and to provide the offence, as a misdemeanor.

The rule is the same where the Statute creates a civil right, without furnishing a remedy.

It is said that if a civil remedy is to be sought in such a case, it is to be sought by an action on the Stat. Yet the Com. Law furnishes the remedy. The reasoning is, the right is given by the Stat. but the remedy, by the Com. Law.

Qui tam & popular action, &c.

1900 - a per la informazione in comunicazione

12000

11. Another beautiful specimen is shown with a

[illegible][illegible]

The section described in our circulars in Feb. 1878

his name is not known to the local people in the Bay. 355

river mouth - ^{at} the lower of the series of steps. S. S. 10. 44 ft.
S. S. 11. 75 ft.

consider the subject of the presentation.

Prosecution of the case of the deceased in the

and further to receive a further application.

[illegible]

So many excellent appeals to letters. Jan. 27

Qui tam prosecutions, &c

1. Sec. 751. A person who is qualified as an agent
 Sec. 752. for the United States in the United States or in any
 753. territory or possession of the U.S. for the United States
 might bring a qui tam prosecution.

and a person who is qualified as an agent for the United States in the United States or in any territory or possession of the U.S. for the United States might bring a qui tam prosecution.

Sec. 754. A person who is qualified as an agent for the United States in the United States or in any territory or possession of the U.S. for the United States might bring a qui tam prosecution.

Sec. 755. A person who is qualified as an agent for the United States in the United States or in any territory or possession of the U.S. for the United States might bring a qui tam prosecution.

Sec. 756. A person who is qualified as an agent for the United States in the United States or in any territory or possession of the U.S. for the United States might bring a qui tam prosecution.

Sec. 757. A person who is qualified as an agent for the United States in the United States or in any territory or possession of the U.S. for the United States might bring a qui tam prosecution.

Sec. 758. A person who is qualified as an agent for the United States in the United States or in any territory or possession of the U.S. for the United States might bring a qui tam prosecution.

Suitam prosecution etc.

of public interest, it seems to be a just, 43.

The rule is the same if a fair and honest is given to the public of a case contained in the person prosecution. The second rule is in-
disclosed, and a right to prosecute in such a case, is that there have been an interest in the case to the accused.

But, where the place is immediately in view to the public, and occasional some circumstances, 2. Nov. 1777
a prosecution unless the public is of great 1. Dec. 1777
the property, &c. to them who shall prosecute, in otherwise, he is a private person.

On the other hand, if a private individual has been immediately in view to the public, as well as to the public, it is a private person, the individual is the property of the public, as far as the public is concerned, as an account of the public, & the public is the property of the public, & it is a private person, to being a private action — Especially, if the kind of public is entitled to a fair and honest, to the public in view, though no fair is given to the public. But, if a case is a private, it is a private action, if the whole interest of the individual is to the private sector: for in that case the public has no interest.

The rule is said to be the same, though in some cases, or other cases, is a private person to the public, or private.

Actions on Penal Statutes.

45

which appears to me to be where death will.

Prosecution against him has been taken in 2 Lev. 282.
 but it is to recover a fine imposed by a cor- 2 Lev. 90.
 poration. In Corporation, this action has been 8 pp. 7.
 sustained to recover a fine.

If a penalty is given to the party to 9 pp. 102.
 the king, and given to the prosecutor the king 2 pp. 902.
 must prosecute & recover the whole. The reason is 11 pp. 602.
 that the party related to the prosecutor is 5 pp. 530.
 never merely a witness in a case and can never
 walk to the witness for the king's action and
 judgment for the king: but the king is the
 prosecutor here.

A habeas corpus conviction, or a conviction
 by a jury, either in action or information 2 pp. 902.
 is a bar to another prosecution at the same 2 pp. 902.
 time, or even to a habeas corpus conviction, for 2 pp. 902.
 it is a maxim, that no man is twice in the
 same danger for the same offence.

But on the other hand a habeas corpus acquit-
 tal, is a bar in the same manner to a
 subsequent indictment or prosecution. This
 acquittal proceeds on the ground of a
 defect. The verdict is some evidence
 that the party acquitted is not guilty. If the
 conviction or acquittal was in collusion, it
 will be of no avail.

Actions &c on Penal Statutes.

Before any one has acted for it. But after a prosecution is commenced by the individual, the king can only release him from the penalty.

47.
2. B. 1. 120.
2. B. 1. 121.
2. B. 1. 122.
2. B. 1. 123.

And upon the same principle the attorney general, in case supra the attorney general cannot enter a non-prosecution except for the point which relates to the thing, where he is concerned. After an individual has commenced a prosecution the king cannot in any way affect his interest. It is said by Mr. Justice Mansfield I can do it - but no further, I apprehend than, because I can do nothing.

2 B. 1. 124.
2 B. 1. 125.

When generally, or part of the penalty is given to the party injured in the offence, the king cannot take the suit of that party, even before the commencement of it. As to him the attorney general, his right is therefore entirely subject to the action brought.

2. B. 1. 126.
2. B. 1. 127.
2. B. 1. 128.

The prosecutor, in a criminal action, may only sue at S. P. release him, part of the penalty & the costs of the prosecution. - I release before conviction. I cannot be compensatory for the loss he has sustained in the commenced interest, & as the individual cannot commence an action, to recover it.

2. B. 1. 129.
2. B. 1. 130.
2. B. 1. 131.

But in the 4th B. 1. it is provided that no commencement in a prosecution shall be a bar to

lections &c on Penal Statutes.

980.77. *unvollst. als unvollst. nach 2. H. v. L. in der 1. H. v. L.*
1895

[illegible]

Master and Slave

15.

I document is now in a work to the see.
What our work is, another is to be done
with us, to that we may be able to
execute it as soon as possible. Our work
is done in the presence of his father, and
we are in the presence of his mother.

The work of the master is done in the presence of his father, and
we are in the presence of his mother, and
we are in the presence of his father, and
we are in the presence of his mother.

The work of the master is done in the presence of his father, and
we are in the presence of his mother, and
we are in the presence of his father, and
we are in the presence of his mother.

The work of the master is done in the presence of his father, and
we are in the presence of his mother, and
we are in the presence of his father, and
we are in the presence of his mother.

1. Work. It is done in the presence of his father, and
we are in the presence of his mother, and
we are in the presence of his father, and
we are in the presence of his mother.

Slavery

Ms. 423.
Burlington, 21-7

and no individual in the United States. Can a slave
be expected to contract? This is impossible. I mean
that no individual is supposed to be able to contract - and
one who is allowed to contract an absolute sale
of his body is, after free sales. It is the most
unfortunate that body can have a right of
property. There can be no consideration for
the slave in his contract. There is a second, that
that one, among himself, himself to contract another,
even for life - for this is merely contracting
his body. Can there be any principle of
the contract law be created by birth of par-
ents who are slaves? This cannot be contracted,
since on the former principle, the contract
cannot be contracted.

1st The contract law can not, clearly
Left 1
be contracted in any contract of contract. Indeed,
it is the same law on this subject that
the contract law of contract countries, in contract
countries, cannot be contracted in contract. Indeed,
it seems to be well settled, that a contract law,
in contract in contract, becomes contract in contract
in the contract of the contract of contract
in contract in contract of contract in contract
in contract in contract, under the contract system,
were not contract - but were in contract contract
contract.

Slavery.

57

There is, at this time, as much Slavery as in
villain in England. See Law as abolished.
It is contradiction to Stat. 12. 13. 14.

5. House 307

Is Slavery abolished in our own land?
I do not know clear. That is not clear.
as clear as day and night in the eyes of our own people.
By law as abolished, has been abolished.
in England. For that upon that has been abolished,
convinced that the existence of slaves in England.
We have indeed no judicial conscience to the point,
arising upon a case or confession. but
there are cases in recognizing the existence.
that slaves may exist. It has been decided.
in this case, is it true that a man may
own another man as his slave. to
conclude the master cannot have an absolute
property in his slave. Our superior court has
determined that no man may be held as a
slave on execution. Does not this decision
recognize the existence of slaves?

Stat. 111

228

337

340

397

Stat. 101

517

Stat. 111

228

That absolute slavery has never been abolished.
it is abolished. It is not the same as the old slavery.
since the age of the world. It has been abolished.
that the slave may not be held as a slave.
of our own land as his master or his property.

The abolition of a person as a slave with the House.
concern of the people is in fact an abolition.

Stat. 111

228

337

340

397

Slavery

not for the marriage, the estate was held in common
 relation, from which some children were born in
 common, & with a child afterwards by one
 of the master. The mother died some
 time before the description occurred relative to williams
 & Wright under the general law. In the case in 1810
 it was held by the court that the marriage was in
 common. But in the present case, a will
 was made by the father, William Wright, at the
 time he was a slave in possession of the same
 not in possession.

Can an illegitimate child be a slave
 by birth? By the civil law, the child of a
 free man and a slave is free. By an
 ancient usage, the child of a slave and a free man
 is a slave.

In the present case, of exchange, the con-
 sideration is valued, & the consideration of the
value: and according to their law, an il-
 legitimate child is free, & not a slave, & they are
 of opinion, he thinks, that he is the owner of
 a william.

In the present case, what is the law?
 in a will will will be valued. The importa-
 tion of will is proprietor in will.

Apprentices.

except of any other description.

2. 1785.

8. 1785.
2. 1785.

It is now settled, that it is not an offence
properly to use in the word "apprentice",
the intention appears.

It is now settled by several Supr. Courts, that the
children of paupers, may be apprenticed out,
for the necessities of the poor, with the consent of
the justice of the peace, and the consent of
the Board of Guardians, to whom they are offered,
and bound to receive them.

It is now settled by several Supr. Courts, that
the children of paupers, in the words, "and pending their time," "and should
not be bound to work, or any other" inappropiate words, for, or
more than, children in custody, may be apprenticed out, into, &c.

All servants, except apprentices, will be entitled
regularly to wages for their service. In Supr. Courts,
the wages of servants in the same way, are made
uniform, in the Principles of the several Provisions.
In Supr. Courts the wages of all servants, are made
the same as before.

Apprentices are regularly entitled to no wages,
8. 1785. unless stipulated in the Contract. It is said, it
is very usual, that apprentices, have a provision
to their masters.

In Supr. Courts minor children are entitled to
bind themselves, in the nature of apprenticeship.
But in Supr. Courts, in the same provision, it is

Apprentices.

To suppose that in Massachusetts an act concerning
the apprentices that it is not bound to make
any more among the slaves. He shall not doubt
as, by implication, of his privilege. The main object
of the law is, that in the relation of master and
servant, even the master, and even the slave,
something, more that relation. The union, if
it does not make the full term, but it
is free of his trade.

24th Stat. 177.
apprentice
here liable for
abuse of
the master
at instance.

Mass. Stat.
177.
178.
179.
180.
181.
182.
183.
184.
185.
186.
187.
188.
189.
190.

We have in Massachusetts no such statute. But if
the father or guardian gives in the indenture
he is bound in the covenant. Let us tell
clearly, also, it is understood, that in such
case, the master or servant is bound to
by the covenant that the apprentice shall
faithfully serve or perform the service for
which he is obliged. But it has not been
golden in Mass. that the father, or guardian
is not bound by those covenants, which shall
will for act to be done by himself, & that
the covenant for performance in the servant
is covenant of his own. There is some question
of the correctness of this view. In Mass. in
Massachusetts, the indenture was different from the
one in Massachusetts - there the parties obligate
themselves respectively, or the performance shall
the covenant be and the of it was the same.

Mass. Stat.
177.
178.
179.
180.
181.
182.
183.
184.
185.
186.
187.
188.
189.
190.

Q. M. R.
228

In British indentures by agreement, (as set out
 1 Burn 25
 40 men in Penn. 9) They are not bound, by the
 Knight 501
 For 518. force of the indenture for the performance
 of the duties of the apprentice.

It follows from the respective rights & duties
 of master & servant, that abuse of an apprentice
 is good cause for his leaving his master. The
 apprentice is not bound to serve a master who
 treats him as a slave.

An apprentice is a servant, cannot be released
 by the master, as a servant can, for it is a rule, that
 only a servant can be released by the master.
 A servant is a servant in law, & a servant in fact.
 A servant is a servant in law, & a servant in fact.

This rule is not intended to a servant & a servant, but
 intended to a servant & a servant. It is a rule, that
 you may have the rule, that this relation of master
 & servant may be dissolved by mutual consent.
 This is a rule, that the rule is in other
 cases as servant is. There cannot be a servant
 by a servant & a servant & a servant.

And it has been held in this case in law.
 That a master having discharged his apprentice
 by a servant, could not sue him for a servant.
 See the case, that the apprentice should first
 be a servant. In the case, it was held, that
 if the first plaintiff was a servant, it was held, that
 the case would not be law.

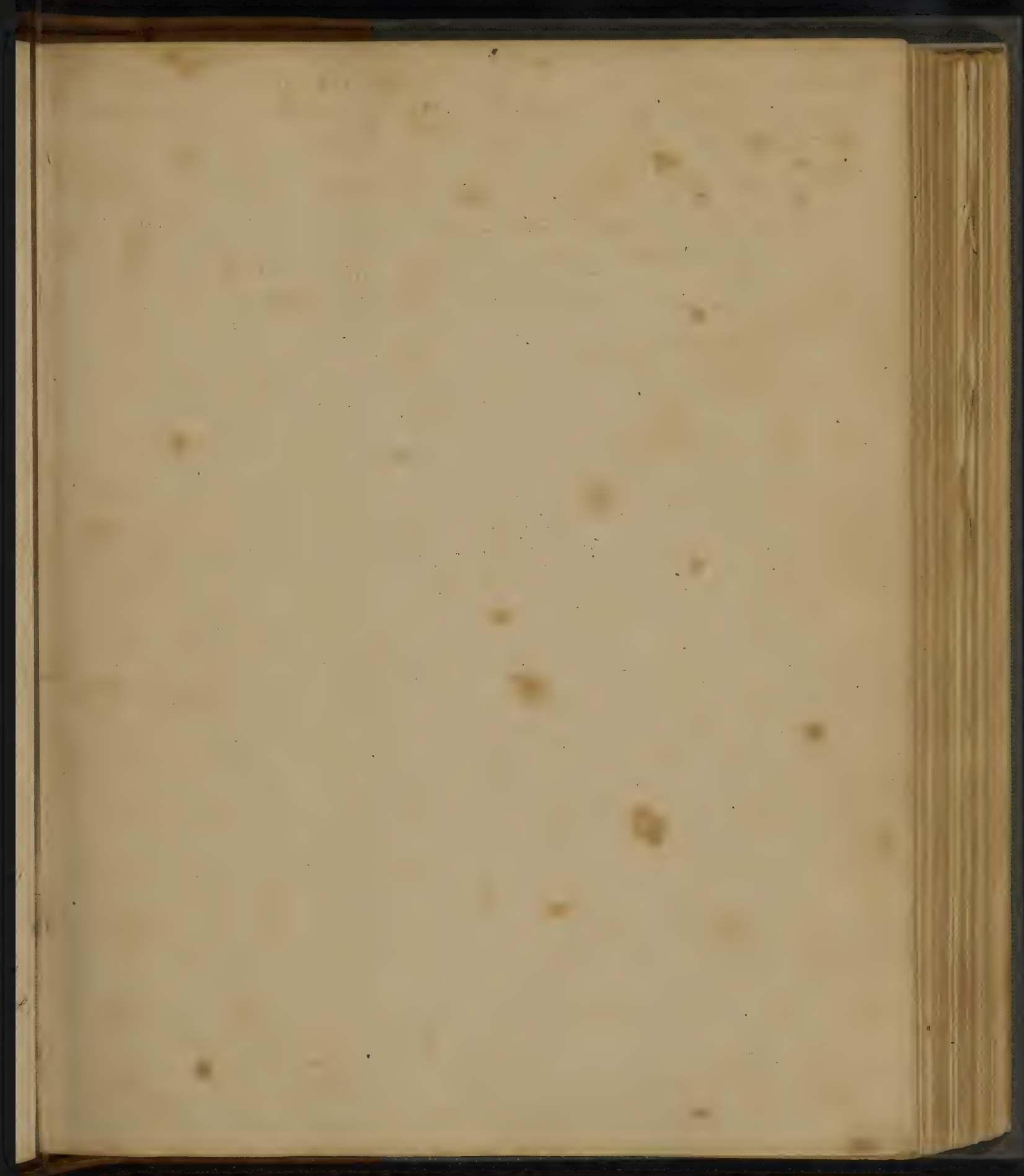
See the case
 1 Burn 25.

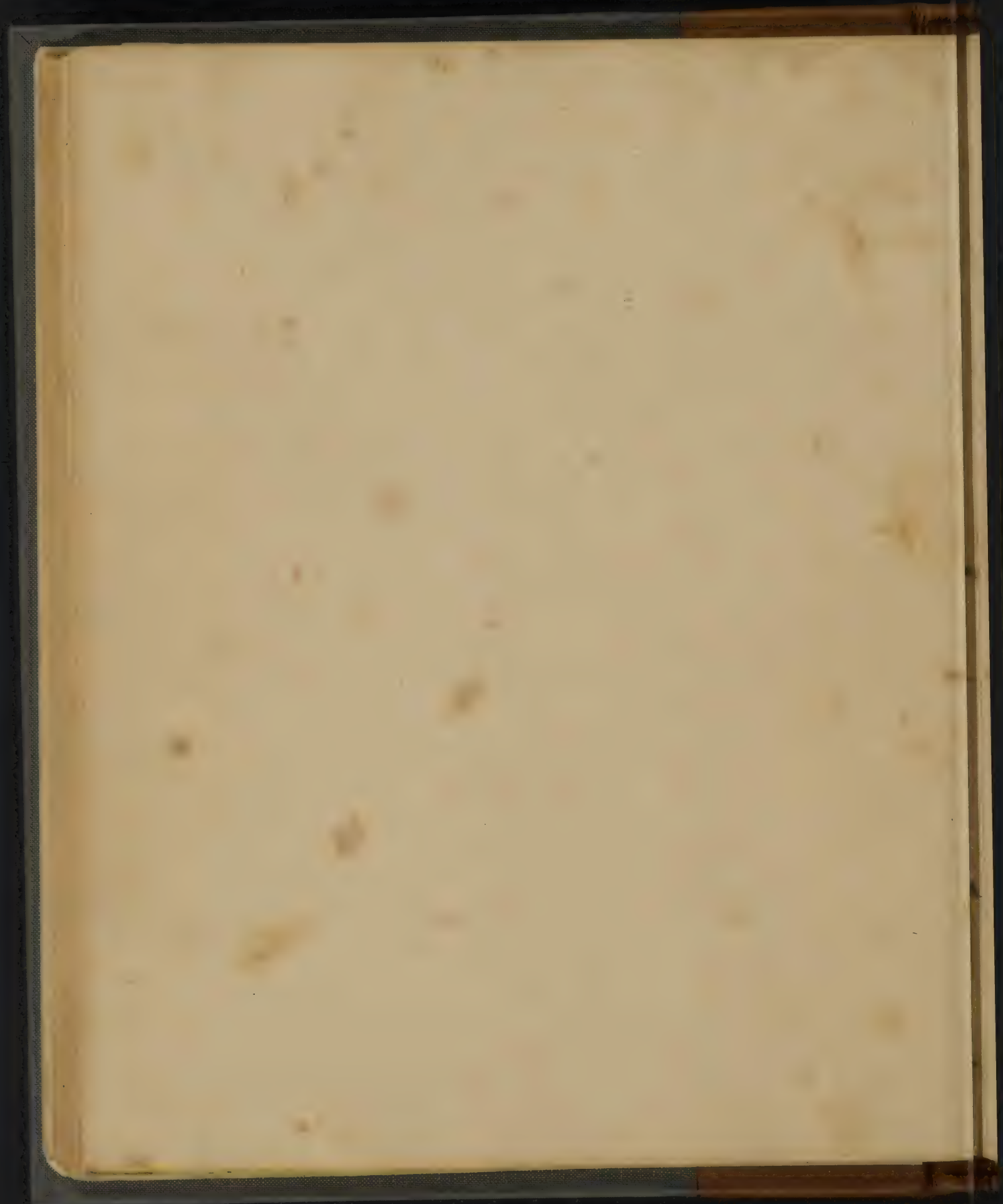
See the case
 1 Burn 25.

See the case
 1 Burn 25.

See the case
 1 Burn 25.

See the case
 1 Burn 25.





Cypripedium.

the well, it was 80 ft. from the point of
the pond, where the water was 50 ft. from the point.

Uncollecting or dismissing up the insect too with this sign.

The apprentice, for the said no license exist at a word.

The same was not very appreciated in our society
 because in the country it is not the object of the people
 to have any more power in the same that
 to have the appreciation for his own sake and
 to his name. In fact, the same is done
 as the appreciation of the same and in some cases, the
appreciation is not made, but it is a great deal to the
 persons, where the appreciation is not made in
 a thousand of the nation. But where the appreciation is
 not made, the appreciation is not made. The appreciation is
 not made in fact in fact.

[illegible]

Apprentices.

Since, it is now, as it was, the duty of the apprentice to
 serve in the army, and to be a soldier, and to
 be a citizen.

So, the same principle, that the
 contract was made, the apprentice of the
 master, and the apprentice of the master,
 and the apprentice of the master.

2. 10. 15.
 2. 10. 15.
 2. 10. 15.
 2. 10. 15.

It has, however, been shown that on the one
 hand, the apprentice is bound to the master
 to serve him, and on the other hand, the master
 is bound to provide him with food and clothing,
 and to pay him wages. This is a contract, and the
 apprentice is bound to serve him, and the master
 is bound to provide him with food and clothing,
 and to pay him wages.

17th 1779
 17th 1779
 17th 1779
 17th 1779

Whether the contract of apprenticeship is a contract
 to provide the apprentice with food and clothing,
 and to pay him wages, is a question, and the
 apprentice is bound to serve him, and the master
 is bound to provide him with food and clothing,
 and to pay him wages.

2. 10. 15.
 2. 10. 15.
 2. 10. 15.
 2. 10. 15.

Of the contract of apprenticeship, the apprentice
 would serve, and the master would provide him
 with food and clothing, and pay him wages.
 The apprentice is bound to serve him, and the
 master is bound to provide him with food and
 clothing, and pay him wages.

Apprentices.

When a premium was given for the apprentice, the Court of Chancery has in a number of cases, allowed a part of the premium to be restored, when the master died, during the term.

1 Sam. 460
1 Atk. 149

Indeed, in one case, the Court of Chancery has ordered a large part to be restored, when by a clause in the indenture, only a small part was stipulated to be restored. This seems to me a violation of principle.

And when the master died during the apprenticeship, Chancery has ordered a restoration of a part of the premium. The same has been done, even the master's becoming bankrupt.

1 Atk. 149
2 No. 550

And it is now a settled rule, that when the

apprentice is discharged by the guardian of the poor, they may order a part of the premium to be restored. This has never been done by the Court of Chancery.

1 Bland.
74.
Lich. 67.
490.
11 Mod. 111

6 Mod. 69.
Lk. 580.
Co. L. 117. n.
1 Kay. 83.

Whatever the apprentice earns by his labor, during the apprenticeship, belongs to the master, even if earned by labor without the master's consent.

2 Atk. 28.
6 Mod. 69.

An apprenticeship debt, will support the master's claim - while the apprenticeship continues, though the indenture is made defective. The parent shall not raise himself of the charge of maintenance of an apprentice without being liable to its duties.

Apprentices.

If a person is apprenticed to a trade, the master may require that he give proper security for his conduct during the term.

But in the case of an apprentice, if he is kept a slave the master is not then entitled to sue: even if without his consent. ^{31st 117}
 The master cannot sue for breach of the contract in an action on the case for the apprentice. ^{2d 117}
 If he does, it is an action on the case for the apprentice. ^{2d 117}
 His master is liable for an action for breach of contract. ^{2d 117}
 But if the apprentice is a slave, the master is not liable for an action for breach of contract. ^{2d 117}

The master may always sue for an action for breach of service, against the person who is bound in any way his servant. ^{109a}
 within the rule.

For taking away one, and not the other. ^{Nov. 115}
 If a person is taken away from his master, the action must be ^{Nov. 117}
 for the taking away. ^{Nov. 117}
 If a person is taken away from his master, the action must be ^{Nov. 117}
 for the taking away. ^{Nov. 117}

* If a person is taken away from his master, the action must be ^{Nov. 117}
 for the taking away. ^{Nov. 117}
 If a person is taken away from his master, the action must be ^{Nov. 117}
 for the taking away. ^{Nov. 117}
 If a person is taken away from his master, the action must be ^{Nov. 117}
 for the taking away. ^{Nov. 117}

By a late Stat. apprentice is made liable, after arriving at full age — ^{2d 117}

67

[Faint handwritten notes]

Jan. 1. 1854

257
258

2. 1841. 17.
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1841. 98.
1841. 99.
1841. 100.

The view of factors is a part of the unconscionable law.
 1. R. 504. If the factor buys more for goods purchased
 2. R. 505. or buys up in quantity than his commission
 3. R. 506. warrants, the principal may disclaim the
 4. R. 507. purchase. If the factor sells for a less
 5. R. 508. price than his commission warrants, the
 6. R. 509. principal may disclaim the sale.

A factor has no right to draw the note
 of the principal for his own debt. His lien
 is a general right which cannot be assigned.
 If personal obligation is reposed in him, the
 5. R. 510. owner, this is binding to his liability as a factor.
 6. R. 511. The principal, in such case, on receiving
 7. R. 512. to the factor, the balance due to him, may
 8. R. 513. deduct his debt against the balance.

Whether the factor may draw the note for
 the debt of the principal, I do not find any
 1. R. 514. authority in the books. I do not see any reason
 2. R. 515. what.

A factor may sell the principal's goods
 though he cannot draw them for his own debt.
 For the business of a factor is to buy & sell the
 1. R. 516. goods sell them in his own name, & one in his
 2. R. 517. name name for the price. He need not dis-
 3. R. 518. close the name of the principal, nor is it ex-
 4. R. 519. petio that he should. It is his accepted interest
 5. R. 520. in the goods.

The same will hold as to brokers & captains
of ships as agents. They may not be agents
of their employers, & have no action in their
own names.

To, unless, one intervenes, many will in his name,
for goods sold by him, as an agent - even tho'
the goods were known at the time, to belong
to another. The contract is made in his name.

In each of these cases, however, the account
may be brought by the principal, though the
contract may not have been made in his
name. North however, cannot have an
action.

I have observed that Packer is not for
an action. An auctioneer, however,
is not liable if he sells goods to the highest
bidder, though for a less sum than he was au-
thorized. For such a deviation is no payment
to the nature of a sale at auction. But if the
auctioneer was to set up the goods at a particular
price, & the auctioneer sells above this price,
& the goods are taken off, for a less price,
he is liable for the difference.

The attorney has a lien upon the papers
& papers of his client, for his fees. & he may
sue the adverse party, to pay the costs to him.
But to his client & the party is bound to pay it.

And if he pays it, with such variation, to the
part 464. Observe, the attorney may or may not be a party
E.P.N. 7057 in the house.

217. the adverse party to a set-off against his
657
2. \$6.440. Objection. The reason for the original suit is that

2. Feb. 1842. It is to the credit, in which the afternoon school was
 and mission, for his services, was "to be kept."

1. ^{674.} ²⁰ ~~1~~ ² ³ ⁴ ⁵ ⁶ ⁷ ⁸ ⁹ ¹⁰ ¹¹ ¹² ¹³ ¹⁴ ¹⁵ ¹⁶ ¹⁷ ¹⁸ ¹⁹ ²⁰ ²¹ ²² ²³ ²⁴ ²⁵ ²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ³² ³³ ³⁴ ³⁵ ³⁶ ³⁷ ³⁸ ³⁹ ⁴⁰ ⁴¹ ⁴² ⁴³ ⁴⁴ ⁴⁵ ⁴⁶ ⁴⁷ ⁴⁸ ⁴⁹ ⁵⁰ ⁵¹ ⁵² ⁵³ ⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷ ⁵⁸ ⁵⁹ ⁶⁰ ⁶¹ ⁶² ⁶³ ⁶⁴ ⁶⁵ ⁶⁶ ⁶⁷ ⁶⁸ ⁶⁹ ⁷⁰ ⁷¹ ⁷² ⁷³ ⁷⁴ ⁷⁵ ⁷⁶ ⁷⁷ ⁷⁸ ⁷⁹ ⁸⁰ ⁸¹ ⁸² ⁸³ ⁸⁴ ⁸⁵ ⁸⁶ ⁸⁷ ⁸⁸ ⁸⁹ ⁹⁰ ⁹¹ ⁹² ⁹³ ⁹⁴ ⁹⁵ ⁹⁶ ⁹⁷ ⁹⁸ ⁹⁹ ¹⁰⁰ ¹⁰¹ ¹⁰² ¹⁰³ ¹⁰⁴ ¹⁰⁵ ¹⁰⁶ ¹⁰⁷ ¹⁰⁸ ¹⁰⁹ ¹¹⁰ ¹¹¹ ¹¹² ¹¹³ ¹¹⁴ ¹¹⁵ ¹¹⁶ ¹¹⁷ ¹¹⁸ ¹¹⁹ ¹²⁰ ¹²¹ ¹²² ¹²³ ¹²⁴ ¹²⁵ ¹²⁶ ¹²⁷ ¹²⁸ ¹²⁹ ¹³⁰ ¹³¹ ¹³² ¹³³ ¹³⁴ ¹³⁵ ¹³⁶ ¹³⁷ ¹³⁸ ¹³⁹ ¹⁴⁰ ¹⁴¹ ¹⁴² ¹⁴³ ¹⁴⁴ ¹⁴⁵ ¹⁴⁶ ¹⁴⁷ ¹⁴⁸ ¹⁴⁹ ¹⁵⁰ ¹⁵¹ ¹⁵² ¹⁵³ ¹⁵⁴ ¹⁵⁵ ¹⁵⁶ ¹⁵⁷ ¹⁵⁸ ¹⁵⁹ ¹⁶⁰ ¹⁶¹ ¹⁶² ¹⁶³ ¹⁶⁴ ¹⁶⁵ ¹⁶⁶ ¹⁶⁷ ¹⁶⁸ ¹⁶⁹ ¹⁷⁰ ¹⁷¹ ¹⁷² ¹⁷³ ¹⁷⁴ ¹⁷⁵ ¹⁷⁶ ¹⁷⁷ ¹⁷⁸ ¹⁷⁹ ¹⁸⁰ ¹⁸¹ ¹⁸² ¹⁸³ ¹⁸⁴ ¹⁸⁵ ¹⁸⁶ ¹⁸⁷ ¹⁸⁸ ¹⁸⁹ ¹⁹⁰ ¹⁹¹ ¹⁹² ¹⁹³ ¹⁹⁴ ¹⁹⁵ ¹⁹⁶ ¹⁹⁷ ¹⁹⁸ ¹⁹⁹ ²⁰⁰ ²⁰¹ ²⁰² ²⁰³ ²⁰⁴ ²⁰⁵ ²⁰⁶ ²⁰⁷ ²⁰⁸ ²⁰⁹ ²¹⁰ ²¹¹ ²¹² ²¹³ ²¹⁴ ²¹⁵ ²¹⁶ ²¹⁷ ²¹⁸ ²¹⁹ ²²⁰ ²²¹ ²²² ²²³ ²²⁴ ²²⁵ ²²⁶ ²²⁷ ²²⁸ ²²⁹ ²³⁰ ²³¹ ²³² ²³³ ²³⁴ ²³⁵ ²³⁶ ²³⁷ ²³⁸ ²³⁹ ²⁴⁰ ²⁴¹ ²⁴² ²⁴³ ²⁴⁴ ²⁴⁵ ²⁴⁶ ²⁴⁷ ²⁴⁸ ²⁴⁹ ²⁵⁰ ²⁵¹ ²⁵² ²⁵³ ²⁵⁴ ²⁵⁵ ²⁵⁶ ²⁵⁷ ²⁵⁸ ²⁵⁹ ²⁶⁰ ²⁶¹ ²⁶² ²⁶³ ²⁶⁴ ²⁶⁵ ²⁶⁶ ²⁶⁷ ²⁶⁸ ²⁶⁹ ²⁷⁰ ²⁷¹ ²⁷² ²⁷³ ²⁷⁴ ²⁷⁵ ²⁷⁶ ²⁷⁷ ²⁷⁸ ²⁷⁹ ²⁸⁰ ²⁸¹ ²⁸² ²⁸³ ²⁸⁴ ²⁸⁵ ²⁸⁶ ²⁸⁷ ²⁸⁸ ²⁸⁹ ²⁹⁰ ²⁹¹ ²⁹² ²⁹³ ²⁹⁴ ²⁹⁵ ²⁹⁶ ²⁹⁷ ²⁹⁸ ²⁹⁹ ³⁰⁰ ³⁰¹ ³⁰² ³⁰³ ³⁰⁴ ³⁰⁵ ³⁰⁶ ³⁰⁷ ³⁰⁸ ³⁰⁹ ³¹⁰ ³¹¹ ³¹² ³¹³ ³¹⁴ ³¹⁵ ³¹⁶ ³¹⁷ ³¹⁸ ³¹⁹ ³²⁰ ³²¹ ³²² ³²³ ³²⁴ ³²⁵ ³²⁶ ³²⁷ ³²⁸ ³²⁹ ³³⁰ ³³¹ ³³² ³³³ ³³⁴ ³³⁵ ³³⁶ ³³⁷ ³³⁸ ³³⁹ ³⁴⁰ ³⁴¹ ³⁴² ³⁴³ ³⁴⁴ ³⁴⁵ ³⁴⁶ ³⁴⁷ ³⁴⁸ ³⁴⁹ ³⁵⁰ ³⁵¹ ³⁵² ³⁵³ ³⁵⁴ ³⁵⁵ ³⁵⁶ ³⁵⁷ ³⁵⁸ ³⁵⁹ ³⁶⁰ ³⁶¹ ³⁶² ³⁶³ ³⁶⁴ ³⁶⁵ ³⁶⁶ ³⁶⁷ ³⁶⁸ ³⁶⁹ ³⁷⁰ ³⁷¹ ³⁷² ³⁷³ ³⁷⁴ ³⁷⁵ ³⁷⁶ ³⁷⁷ ³⁷⁸ ³⁷⁹ ³⁸⁰ ³⁸¹ ³⁸² ³⁸³ ³⁸⁴ ³⁸⁵ ³⁸⁶ ³⁸⁷ ³⁸⁸ ³⁸⁹ ³⁹⁰ ³⁹¹ ³⁹² ³⁹³ ³⁹⁴ ³⁹⁵ ³⁹⁶ ³⁹⁷ ³⁹⁸ ³⁹⁹ ⁴⁰⁰ ⁴⁰¹ ⁴⁰² ⁴⁰³ ⁴⁰⁴ ⁴⁰⁵ ⁴⁰⁶ ⁴⁰⁷ ⁴⁰⁸ ⁴⁰⁹ ⁴¹⁰ ⁴¹¹ ⁴¹² ⁴¹³ ⁴¹⁴ ⁴¹⁵ ⁴¹⁶ ⁴¹⁷ ⁴¹⁸ ⁴¹⁹ ⁴²⁰ ⁴²¹ ⁴²² ⁴²³ ⁴²⁴ ⁴²⁵ ⁴²⁶ ⁴²⁷ ⁴²⁸ ⁴²⁹ ⁴³⁰ ⁴³¹ ⁴³² ⁴³³ ⁴³⁴ ⁴³⁵ ⁴³⁶ ⁴³⁷ ⁴³⁸ ⁴³⁹ ⁴⁴⁰ ⁴⁴¹ ⁴⁴² ⁴⁴³ ⁴⁴⁴ ⁴⁴⁵ ⁴⁴⁶ ⁴⁴⁷ ⁴⁴⁸ ⁴⁴⁹ ⁴⁵⁰ ⁴⁵¹ ⁴⁵² ⁴⁵³ ⁴⁵⁴ ⁴⁵⁵ ⁴⁵⁶ ⁴⁵⁷ ⁴⁵⁸ ⁴⁵⁹ ⁴⁶⁰ ⁴⁶¹ ⁴⁶² ⁴⁶³ ⁴⁶⁴ ^{465</}

Ed. D. Weston
Scribe

Debtors assigned in Service. This is a species of suretyship created by our Stat. Law, in answer to the D. Law. For this Stat a debtor committed in execution & having no property to satisfy the debt may be assigned in service, by the Court or County, & if the creditor receive from the Co. Judge is responsible, to any inhabitant of this State, lawfully to the creditor, himself.

Rules applying to Master & servant, generally.

When is the master bound for the acts of the
servant? & where may he read himself?

The general principle, which governs on this
subject, is that those acts which are done in the
master's service are proper or improper according to

1. M. & S. 229 in some cases are not of the master's
2. R. & S. 229.

And, therefore, all acts of the servant in
the performance of his duty, as which he is em-
ployed by the master, are deemed to be done
in his service. This is the great principle
which governs the whole of this
subject.

There is another the servant does in the ex-
ercise of his duty, as a servant of the master
as a servant. The servant does within the scope
of a reasonable authority of the master as a servant
of the master.

2. M. & S. 229
2. R. & S. 229.

A contract then, made with a servant, as
a servant, he having authority to make it for
the master, is made in good contemplation,
in the master's service. "For a servant, as a servant
of the master."

On the other hand if the servant is outside of
his master's property, the master may recover it.
1. M. & S. 229
2. R. & S. 229. by an action against the wrongdoer — This can
be done as the former immediately injured.

General Davis.

If a servant is robbed of the money paid,
in the absence of the master, either he may have
an action on the Bondth Phil, against the man-
sioner for, it is said the servant is held to
be liable on his liability due to his master.
For this, I humbly conceive is not true. The
servant is not liable, on any way, a consequence
exposure he has occasioned the robbery. The
rule is founded on the fact, that the master is
considered as the respondeat, as a principal in
paribus with the master. This is the reason
why all bailees & managers are liable in an
action of conversion, &c. I should judge re-
quire that the servant should have been im-
mediately seized to prosecute.

I conceive, in such case, when the master
is not seized with the goods & action on the other
And the consequence of the action is a fine,
and rescue of the action.

The servant may be liable as of a possession
of his own goods, & proof that they belong to
his master will support this action.
7. Mar. 04
Feb 613.
3. Mar. 209

But if the servant is robbed in the presence
of the master the latter only can maintain the
action. The taking is supposed to be from his
possession, & no distinct possession is then necessary
2nd.

Feb 613

Feb 613

Feb 613

General Rules.

If the master's money is obtained from the servant, by an illegal contract, the master may recover it back; as if he takes it by penury. But 3 B. & A. 589, if the servant squanders his master's money, there being no illegal contract in the party receiving, the master cannot recover it back from the receiver.

1 B. & A. 480.
8 B. & A. 32.
2 B. & A. 595.
1 B. & A. 2. 45.

Liability of innkeepers for the acts of their servants, is considered under the title of Inns & Innskeepers &c.

1 B. & A. 430.
1 B. & A. 328.
2 B. & A. 580.
580.

If a servant does an unlawful act, in the course of his master's business, and servant is liable either on a criminal prosecution, or on an action by the party injured. The servant is bound to obey orders, the master's commands of his master.

But if a servant, in obedience to his master's command, does a wrong, of which he is ignorant, he is not liable, unless there is some vulpable negligence in him. His ignorance must be as to the fact, & not an ignorance of law. For ignorance of the law is no excuse. The reason why the servant is not liable is, that he is an involuntary agent. As if the master falsely imprisons one, & gives the key of the door to a servant ignorant of the fact, the servant is not liable.

This rule however, in the terms of it, may be liable to mislead. It can apply only to acts in themselves.

General Rules.

Hemlock, hemlock. It does not, consciously, hold 77
if the act done is in itself, unlawful, or if it con-
stitutes a grave injury. For in such cases, the
law does not require the intent, when a civil
remedy is sought. As if I inform my friend
that I am the owner of my neighbor's land, &
advise him to cut trees, he is liable, as well as
myself. 181. 892

Where the act is itself, unlawful, the person com-
mitting it is liable for all the consequences.

Those acts of the servant, which are not done by
the master's command, or in his employment are not
imputed to the act of the master.

When the servant is entrusted with the master's vi-
sitation, & not in the discharge of some business,
in which he is employed by the master, either con-
tractually or gratuitously, his acts are not considered as
done by the master. The master then, is not
liable for injuries, thus occasioned, by the servant. 181. 222
181. 252
181. 598

liable for injuries, thus occasioned, by the servant
to third persons, nor for any trade thus entered
into by the servant, in the master's name. As
if the servant leaves the field, in which he is em-
ployed, and without his leave, goes with a father.
The father is not liable for any unlawful, or un-
authorized act of his child, who is considered by the law
as his servant. So if the servant, without au-
thorization, goes to the master's house, and takes some

General Rules.

Case 115.

1844-45.

25th 782.

25th 782.

25th 782.

25th 782.

25th 782.

But the principle it has been lately determined
in Eng^t that if the servant, who actually performs
his master's business, unjustly commits an
injury to another, he is liable for his master's con-
duct, & cannot sue the master. The master is not
liable. This decision is not inconsistent with
the general rule, he commands the servant's
conduct. From the moment, that the servant is
bound to perform his master's business, he is acting in his master's
service, & is responsible for his master's business. The
act is a violation of his master's business, in
the moment.

This rule, however, is not inconsistent for where
a negligent act of the servant makes a master liable
in contract, in the fact of the master the master
will be liable, as for a breach of contract.

1845-46.

25th 782.

25th 782.

25th 782.

25th 782.

But the other hand, if the servant while in the
discharge of his master's business, commits a
negligent act, or an act of will, or an act in
violation of his master's business, the master is liable. This is a
distinction on the subject. Every master is
at his peril, and has a case in which he is
liable, he is not an insurer against the
negligence of his servant, as ^{act,} there is a case in
the law, in which he is not liable.

General Rules.

In the case of the owner's injury, it is assumed by 79
 our act as well for the master: in the other, it is not.

Thus, where a cart's servant negligently drove his cart 24th 44
 carriage against that of another, and hit it, 2d 44 79, 100, 101-
 102, the master was held liable.

1. If a negro is apprenticed, his master is not liable
 in an action in which he was servant. In re
 master, the latter is liable. 21d 300 1040

2. If a blacksmith's apprentice takes a horse
 in chains, the blacksmith himself is liable.
 Indeed, he would in this case be liable
 on the ground of a violated contract.

3. The distinction between a servant and a wife
 is, however, scarcely established. At first, the
 law was satisfied with it as were most of the

judges. In the first case, on this subject, the
fact in the case was brought in the ground that
 the servant had withheld made his carriage against
 another — 2d 44, without expressing a search of
 the master was liable held that this was not the pro-
 per action. The next case was that in 2d 44 1040

which was an action of trover (in the name
 of the former case) for negligence in the servant
 in driving etc. — In the 2d 44 held that the ac-
 tion would not lie for that reason, in the case
 was the proper remedy. The next case was the
 one in 1st 44 100 which was an action of

General rules

of negligence for wilful injuries of the servant, in the
 master's case the 2^d held in this case that the
 master was not liable at all. It is remarkable
 that the decisions in all these cases were correct,
 though the reasons given in the first were clearly
 wrong and the true reasoning not adopted till the last.

Without doubt, when the master is liable for an
 injury done without his direction by the servant
 whether wilful or negligent, negligence as the case
 is the remedy against him. For if the master could
 be sued in negligence, he would be liable to a
 judgment of capias for a breach of the peace &
 would be liable to an indictment. This position
 is decisive.

When the action is brought against the servant
 himself, it makes no difference as to the form
 of action, whether the injury was committed thru
negligence, or wilfully. Negligence is the
 proper action in either case. The immediate author
 of a forcible injury, is always liable in negligence.

1. B. & P. 404.
 6. T. R. 411. If a servant employs, in his master's business,
 another servant, who commits an injury to another,
 through negligence or want of skill the master is
 liable in most cases the servant who is employ-
 ed. I have always had some scruple at the incor-
 rectness of the decision in the case cited. It is now appar-
 ent that the first servant had some authority to employ another.

In the last case, the action lies only against the master, or the immediate agent, & not against the intermediate servant. He, in enforcing the service acts not for himself, but for his master.

6 D.R. 411.

The rule that the master is not liable for the wilful tort of his servant does not hold where the wilful tort of the servant involves a violation of contract, between the master & the person injured. There is no precise case to this point, but the rule is unquestionable. Thus suppose that a blacksmith's apprentice wilfully towards a horse, in giving him, the master is liable - for he has impliedly undertaken that all necessary care shall be taken. It shall be enough, in the discharge of his duty, the master cannot be liable in tort, but liable on the ground of violated contract. He is not liable for the servant's wilful tort as a tort.

R. Pl. 155.
7 D.R. 107
Haw. 2. 2.
New Stat.
73-4.

The rule regarding the liability of Bailiffs, for wrongs & trespasses of under-sheriffs, see "Sheriffs & Bailiffs."

A postman is not liable for the neglect of his servant, or subordinate officer. He may be liable from the circumstances, and contract, if any, in the service, such as contract with the public, but with the public. For the reason he is not liable as a common carrier. That he receives money from the public, from whom he obtains his compensation.

82.
 "Hans. 641. X. is an agent for the public, and as such,
 is not liable to individual, but an individual
 is liable to the public."
 2. 84. 443.
 2. 84. 443.
 2. 84. 443.

But a particular is liable for his own conduct, etc.
 and to the injury of individual, etc. in respect
 of which in the common law, he is liable in
 a tortious action, is not screened in his situation
 from the consequences of his own misconduct.
 2. 84. 443.
 2. 84. 443.
 2. 84. 443.

Masters Liability upon Contracts made
by his Servant.

The general rule is that the master is bound
 in the contracts made for him, by the servant,
 whenever the latter acts within the scope of his
 employment, and is not liable in the master. This rule is
 subject to the exception that the master is not bound
 in contracts made by the servant, if the servant is
 acting as an independent contractor, and not as a
 servant. 2. 84. 443.
 2. 84. 443.
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 2. 84. 443.
 2. 84. 443.

A general rule is that a master is not confined
 to his individual acts, but is liable for the acts
 of his servants, and is liable for the acts of his
 servants, and is liable for the acts of his servants,
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A general rule is that a master is not confined
 to his individual acts, but is liable for the acts
 of his servants, and is liable for the acts of his servants,
 and is liable for the acts of his servants, and is liable
 for the acts of his servants, and is liable for the acts
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master employs the servant to purchase horses,
or any article &c.

A special authority may be implied from
the master's usual practice. A special au-
thority also, may be implied, though the instances
are rare; as if the servant in the presence
of the master, enters a contract in his name
the master remains silent, this implies a
special authority.

If a master has made it his practice, howev-
er, to send his servant to purchase necessities
with money, & he sends him to make a purchase
of horses, in no other case he will not be an-
swerable for what he purchases on credit. But
if it had been his practice to permit the servant
to purchase on trust, the rule would be otherwise.
Perhaps a particular contract may be made with
and his pursuance. A recognition however to
trade with A, will give him a credit with
A only - not with the public.

And if a servant without any authority
express or implied buys goods for his master, &
they come to his use he is liable - for the master
receiving the articles, is a party to the contract &
made for himself & in pursuance of his authority.
The servant is a mere agent. If in such
case however, the master had seen the servant

[illegible]

But should a master have permitted the servant
to go so far from an credit, it may surprise him with
for the future, by forbidding the tradesman to trust
him in as the same man in the matter to the
public. That a credit is due to the servant will
not be denied. Nor will a dissolution of the rela-
tion of master and servant prevent for a time at
least his liability. For the tradesman should
have notice of the prohibition - or the dissolution.
And the second rule is, that the notice of the
servant is public, as the credit is here given
to the present.

27th Nov. 1857. If a servant, in selling property, which he was authorized to do, is the master to sell, in what a circumstance the master is bound in the execution of the servant's duty.

to a right of sale.

Does then the servant act, within the scope of
his authority and properly in relation, and sends
 the goods to the public, or to the purchaser will not
 charge the master for the conversion. Is, as a rule
 as a servant of a domestick who is usually an
agent in the master's sell his goods.

22 R. 700
 10 M. 113

But if the servant is only a special agent, the rule
 holds, as before said reason. If the master forbids the
 servant to convert, he will not be liable for the
 same has then no right to presume a sale, from
 common practice.

If these principles are correct the decision in Ex. 2-67
 the case of Anthony & Shaw appears to me now right
 and reasonable. A man in Ex. 2-67 having a number of
 counterfeit ivory employed B. as his servant, to
 sell them in Africa, to the King of Barbary, or some other
person. B. went to Africa & sold them to C.
 who afterwards sold them to the King of Barbary.
 The King soon discovered the fraud - imprisoned
 B. compelling him to refuse the purchase money.
 (No direction was given by the master to the ser-
 vant to give any money at the counterfeit) Ex. 2-67
 I returned to Ex. 2-67 & brought an act on against C. Ex. 2-67
 It is impossible if it was known that no action would lie, he
 could have not prosecuted by his master to sell the counterfeit.
 But the servant was not expressly restrained from conversion.

either, if he would receive an idea, of the con-
tract, must recede as a contract made in the con-
tract, in his own name; but such an assumption
could not be supported by the evidence, which is
that the contract was made in the name of the
Tragedy, without authority.

As the case now is, the servant may, I suppose be
subjected, to the same as the case has been or in
an action of fraud.

As to the point can be a remedy, in the case of the
Tragedy and the remedy an expectation in another,
to perform what by the contract, ought to be done.

I mean wife, relation child, or friend, as agent, with
for him, under general authority, or under a spe-
cial one, in his name, within the rule before
and drawn.

But a third in fact is it, traced. That it can
be done under the provision of a master in fact.
As in the question of contract, in his own name,
and for himself, it will be the master. And
as to the then contract can be binding at
all.

What case of master and servant can this statute
extend? Surely it does not extend to every case of mas-
ter and servant. It can only be done in the case of a man
servant, or servant for some, or a factor, or agent,
or in the case of a man and his family, under this statute.

wrong is done by the servant, for which the master
is not liable, the servant must be.

89.
608/178
V. 406
L. 18
S. 10603.

There are cases in which strangers, injured by
the act of the servant, may have a remedy ap-
plied either the master or servant.

The general rule is, that if the servant, while
in the discharge of his master's business, commits
an act injurious to a third person, thro' careles-
sness or want of skill, the servant, as well as
the master is liable; provided the transaction
in which the servant was engaged, was not
founded on any contract between the master
& the stranger injured. For in this latter case,
the master only, will be liable on the contract.

St. 1003
1. 346. 328
1841. 220
6 S. 2. 411

The servant, in the former case is liable, because
he is the immediate cause of the injury, & the per-
son injured is under no obligation to enquire in-
to his domestic relations, to ascertain whether he was
employed by another.

But if the business in which the servant was
employed at the time, was founded on a con-
tract between the master & party injured, the latter
must take his remedy against the master. He
is, by supposition, liable on contract express or im-
plied, - (The servant being engaged in the perfor-
mance of that) it presents merely the case of
a negligent contract. As in case of a smith's apprentice business & loss.

St. 1007.
Rough. 406.
1. H. C. 421

I am very acceptable to this work, in the sense of
a satisfaction, and as such in the answer, I write to
the friends, for pleasure or for satisfaction. It is
necessary. This is given in the words set out.

sub. 88, with ⁴⁴ in caption to the general note - Tariff, vol. 44

[illegible]

I am sensible & convinced it is wisest that he
is still in all regard to the land in his own
though the manner in which it was made was
founded on a trust, between the master & former
owner. The former gave such land away in
the former part of his life. It is clear, app-
arent, that if the master himself had own-
ered the land that the same in his will
was the contract & condition in his will on the
fact. This will is not of the same in a second
view of his business and as it is not difficult to see

91

cut off the lower end in the case of the smith's
apprentice) or head.

A public agent, even acting or acting as
such, is not personally liable. And in pursu-
ance of this principle, it is well settled that if
an officer of the revenue by mistake receives
an over payment, can claim to recover it back will
not lie against the officer. Camp. 107
The law supposes
that an overpayment will be permitted in
an application to the justice of the peace.

But a public officer, will not recover
more than the express payment of his own hand,
or receipt. If then, a public officer receives
an over payment from another, under colour
of his office, for his own use, an action will
lie against him, for money had & received. Camp. 108

He then does not act as an officer of the public.

If an attorney is employed at any point to the
interest of the opposite party, he is liable to him
in damages. Now when an attorney for the
plaintiff, after a non suit entered, brings the case Hunt. 25-
over & enters judgment for the defendant, he was held
to be liable for this point to the defendant Epi. 6th

But if an attorney, knowing that the plaintiff
is related to the defendant his cause of action being
an action for the same cause, he is not liable —
not because he acts as servant — but because

1. Oct. 95 at summit of Mt. St. Helens. It is possible that the
 ... 209 ...
 2. Dec. 595 ...
 3. Dec. 563 ...

... 209
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1800. 590
1800. 563

2. Servant's liability for his acts, &c. to his master.

7. 107.

6.2.265

2. 16. 10

2/40. 560

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The other hand of the master is weak & idle
 The slave dead & cries for justice. He may even be seen
 L. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 83

L. v. n.

2. 74: 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848

Recalls is the volume, where there is a receipt of
 1. 10. 67
 2. 10. 67
 3. 10. 67
 4. 10. 67

284.2 3013

4. Bu. 246"

The several regulations in relation with the Society
relating to the children are as follows:—

This is all that the law, in general, implies. The
servant makes contract for more.

The rule, however, is not universal — for if a
man is employed in the line of his profession
he does implicitly engage that he will act skilfully
etc.

The servant, by the last rule, is not liable for a
slap of his master's ear or occasioned by robbery,
if he has used ordinary obedience & fidelity. He is not
liable for those occasioned by those accidents
against which ordinary obedience & fidelity is not
a sufficient guard.

The servant is liable over to the master, when
the latter has been subjected to damages for an
injury occasioned to a stranger, for the master's
neglect or culpable neglect of the servant, as in
the case of the servant's negligently striking his
master's carriage with a stone.

This rule however supposes the master not to have
been actually a party to the wrong committed
by the servant — though in legal imputation
he is always in such case a party. If the ser-
vant has acted by express command of the master,
the latter can make no remedy against
the servant, for in this case the master & servant
are joint wrong doers, between whom there is no
contribution.

Master's authority over his servant.

The water here seems to contain less iron than the water
from the upper part of the river, as the water here is more
clear and the iron is less abundant.

We have often observed that the same character
 applies even to those servants who labor in the ser-
 vice of a servant to the master, for we are inclined
 to suppose that the same character is common to
 the same class of men. It is not, however, the master's
 character, but the character of the servant, which
 we are concerned with. It is probable that the master can
 and should be a great influence in the success of a
 son of a particular race. He may, however, char-
 acterize his slave as a faithful or an unfaithful servant.
 He may be a good or a bad master. He may be a
 kind or a cruel master. He may be a good or a bad
 master. He may be a good or a bad master. He may be a
 good or a bad master. He may be a good or a bad master.

to correction, & so also is a slave of my eye. Had
 if the master beats over other servant of full age,
 or if his wife does, it the servant may object.

The master can never justify the wrongs of his
 servant, unless his right to administer correction
 is manifest. If then the servant sues his master
 for a punishment or battery or wounding, or the master in-
 tending by a blow to the whole or the part of his
 right to be master, his plea will be good for the whole.
 He should plead not guilty as to the wrongs, and
 a justification as to the other.

When in an action thus brought by the servant
 the master must state in his justification the return
 of the servant the place where & the time
 at which the servant was employed for these facts
 are essential.

This right of correction is personal in the mas-
 ter & he cannot delegate it to another.

If however the master puts his servant to school
 the schoolmaster may correct him he is answerable
 for it. It is not answerable from a breach of contract
 but he is not therefore, not by an authority set
 aside by the master of the servant.

If the master happens to kill the servant in correct-
 ing him, he is guilty of ex-cusable homicide even
 manslaughter, or even murder according to the circum-
 stances of the case.

2 N. 216

2. Mod. 64
1. S. 160
2. 18.
2. 18.
1. 2. 18. 64

1. 2. 18. 17

1. 2. 18. 93.
1. 2. 18. 160
2. 18. 43
2. 18. 43
1. 2. 18. 62
2. 18.

"Homicide"

1. 2. 18. 114
1. 2. 18. 117
1. 2. 18. 117
1. 2. 18. 117
1. 2. 18. 117

Master's remedies against third persons for injuries
done him in relation to his servant

An action lies in favor of the master against

Case 56.

6 Mod. 162. If one is assaulted, and his servant is present, but a third

Talk. 900.

Lea. May. 1116. is tried with a second person, and the third

1 Brod. 469

the grovener of the action.

If an action is taken over in force, it is

3 Talk. 191.

2. East. 8. 12.

said that perhaps with a per quod is the prop.

2. East. 8. 12.

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for a personal injury to his child, in consequence of
which he has suffered a loss of service.

On this principle only it is, that one stand-
ing in loco parentis may maintain an action
for seducing a female child. The gist of the ac-
tion is the loss of service. But the rule of damages
has been extended beyond this.

If one beats the servant of another to such a degree
that he quits the master accord to the C. L. L. has no
remedy: for the private injury is covered in the pub-
lic offence. In Common, we have not accepted the doc-
trine of merger in every other case: perhaps
it would not be here.

If a person employed to cure the servants
wounded intention and injures it by improper treat-
ment, so that the master loses his service, an
action for quod non will lie in his behalf against
the surgeon. Suppose the injury done through
ignorance or want of skill — I can see no rea-
son why the action should not now lie. An action
in behalf of the servant for his injury would cer-
tainly be sustained — why not in behalf of the
master for his consequential damage.

In the case of the servant enticed away, a re-
covery had & full satisfaction obtained by the mas-
ter against the servant, will support an action against
the stranger who enticed him.

Appl. 29-
90.
Hob. 50
Page 379.

1. Hob. 98
1. Hob. 24
2. Bull. 572.

2. Read?
229
2. Will. 377.
1. Hob. 90.
2. East 348.

Nov. 1745-
H. R. 157.

What acts the master & servant may justly in relation to
each other &c

2. 429.
2. 430.

A master may maintain his servant in an
action against a stranger without incurring
the legal guilt of maintenance.

2. 430.
2. 431.

A servant may justify an assault in defence of his mas-
ter, because it is said this is a part of his duty.

2. 431.
2. 432.

But a servant cannot justify a battery in defence
of his master's estate. For the right of possession of his
relation to his master. Nor even he justify an assault
in defence of his master's goods — unless he is entitled
to them in his own right.

2. 432.
2. 433.

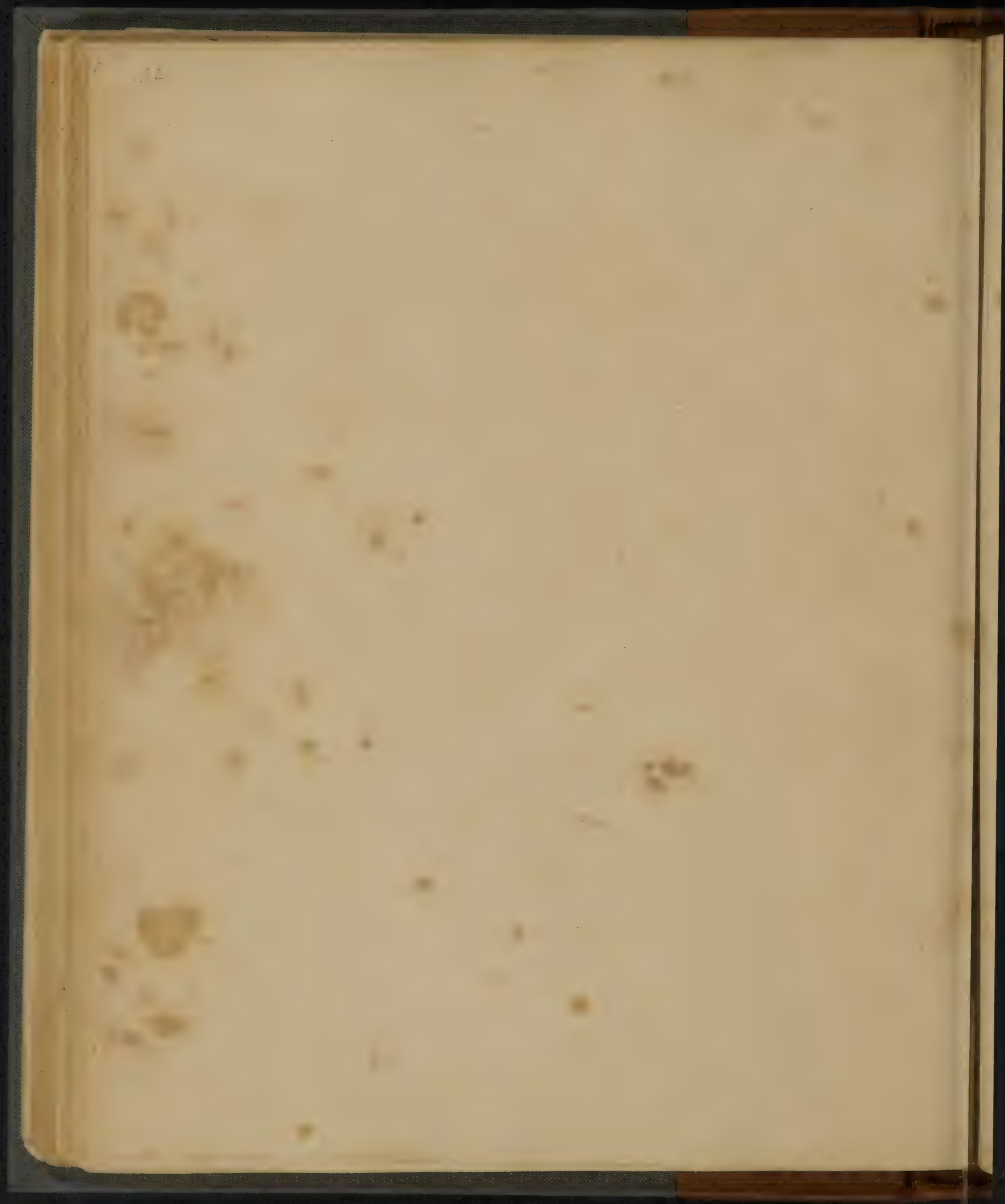
Whether a servant may justify an assault in defence
of his servant is a question about which the opinion
are not agreed. The law seems to require that his
remedy be an action against the wrongdoer for
recovery of damages. But the reason against this seems
not have properly been considered. I apprehend the
master may justify an assault in defence of his
servant, on the ground of his interest in the same
person as he may justify an assault in defence
of his goods. For in this case the same objection might
be urged — that he has a remedy by action.

2. 433.
2. 434.

THE END

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11



123

Baron and Femme, in, &c.

On the subject of Baron and Femme, no perfect treatise seems ever to have been written.

Husband's power over
the wife's personal prop-
erty.

I shall first consider the right which the hus-
band acquires in the personal property of the wife.

This property may be either in possession, or
in the nature of chose in action.

To all personal property, at which the wife is
the owner, the husband acquires an absolute title.
He, in the event of divorce, as if it had been
transferred to him by grant. On her death this
property goes to his executors, and never reverts to her.

From this principle it is apparent, that cred-
itors to the wife may suffer. The husband is un-
der liable for the debts of the wife, during cohabitation. p. 468.
p. 469.
712.

After her death, his liability is determined. And
if the husband dies, though his liability continues,
his personal property is no longer at her dispo-
sal. This is the only case in which property is trans-
ferred by act of law from one person to another, at
the expense of creditors.

The liability of the husband does not arise, arise
at all from the circumstance of his receiving any
property from the wife, or from his being ever bound
as the debtor. The wife is considered as the substantial
owner. The obligation surviving is owing to her.

The husband is joined with the wife for her reasons.
He is deprived in the measure of her personal property.

Right and wrong.

Husband's right to the wife's choses in action.

and was. It therefore is said to be a chose in action. If
the action could be maintained against her. She
can well not trust to the capacity of the husband.
and therefore will never suffer her to be imprisoned
without the husband. The essential rights of the
husband indeed are transferred to the wife at
once after marriage whatever.

Right of the husband to the wife's choses in action.

If choses in action I intend her bonds, notes, &c.
and with these is associated her right to recover
for her own use.

The husband's right over these is not as com-
plete as over her personal property in possession.
By the common law the husband recovers these
The wife shows in action to possession, and makes
him acquiesce in it. But the wife is not bound to
do this still subject to her; and if she does be-
fore her choses in action are reduced to posses-
sion they so that exco^o or admin^o.

1. 343.
2. 407.
3. 156.
4. 232.
5. 32.
6. 15.
7. 24.

8. 1. The husband cannot
be bound to pay
to the wife's creditors
and for her personal
debts until after
her death.
9. 575.

When a contract is made with a feme before marriage,
by which she is entitled to a sum of money, on the death
of the husband, this is a chose in action, &c. which, so long as she has
it, the husband's attorney receives the money, and
the wife shows in action it is a receipt in full in
every way.

The husband may sue upon the wife's choses in action,
and the agreement is a valid one. But he cannot

Husband's right to the wife's Chores in Action.
 in this respect is a limited one. He must make
 the appointment for a valuable consideration, 2. Allen 44.
 as it will not bind him.

Although in marriage the personal property
 of the wife is at the husband's disposal; yet
 if before the marriage, he agreed to settle lands
 at a future time, upon the wife, and that till that
 is done, the portion of the wife shall vest in some
 other person — and he dies without making, Ver. 976
 the settlement or leaving property, on which
 an execⁿ can secure a specific performance, it
 has been decided that the husband's execⁿ shall of the estate per
common.
 be trustee of this personal property, for the wife
 until a settlement is made on her according
 to agreement.

The husband can never devise away the
 share in action of the wife, but he has a right
 of disposal. They belong to her or her execⁿ.

When the husband becomes a bankrupt, the share
 in action of the wife, and by operation of law Ver. 249.
 transferred to the assignees. The principle is that
 he is as much liable for her debt at the time
 of the commission as for his own: and he must
 be discharged under the commission.

The husband may purchase the share in ac- 312 &
Dec. Ch. 412
2. Allen 675.
2. Allen 108.
3. Ver. 467.
 tion by making a competent settlement on the wife.
 This must not however be a settlement of a jointure
 in law & equity; it must be an appointment, a gift, or a purchase.
 as in the marriage. 2. Allen 444-448.
2. Allen 58.
Ver. 316.
6. Ver. 385.
2. Ver. 378.
7. Ver. 47.

Carroll & Home Husband's right over the wife's Choses in Action.

But see 9 Ves. 87.
1 Ves. 378.

106

Articles of agreement to settle an estate upon the wife, have been holden also to be a purchase of her choses in action. For these articles would be decreed to be executed, in Ch^y.

It may happen that the husband cannot collect at law, but is compelled to go to Ch^y to collect. The wife's choses in action - as where they are holden by others in trust for the wife. C.D. of Ch^y will never compell the trustee to give up the bond, unless the husband will make or goes to make a competent settlement to the wife. This may, however, be generally waived by the wife.

It is common, however, for Ch^y to advise the husband to receive the interest, though he makes no settlement. This is for the maintenance of his family. C.D. of Ch^y will exercise a discretion in these cases.

The assignees of a bankrupt, in case consimili are in the same situation as the husband - and stand in his shoes. They must make a provision for the wife, if they would claim the aid of Ch^y to gain the beneficial interest. But it is otherwise, if the husband

Worren v. Ward

1 Br. Ch.

1 P. W. 189.

4 Ves. 220.

* Restraint by J. & S. 81.
7 is one of the best for a term of years.

4 Ves. 19.

Newb. 32.

2 Ves. 220.

3 Br. Ch. 202.

1 Ves. 40.

2 Atk. 417.

conveyed, for a valuable consideration, these choses to the assignees. It seems to me, then, in some instances in the these decisions, with the principle in the other cases. For how can in a circuitous manner the husband be allowed to avail himself of this species of property which otherwise he could not see, without making a suitable provision for her.

Husband's power over the wife's choses in action.
Suppose the husband is willing to pay or receive of
the chose in action to the husband, & the wife
will interfere to prevent this. They may interfere
when the parties are compellers to apply to them.
It has been determined in one case, that mon.
3. 4th 241.
Barton 410
2. d. 11. 637.
3. 15th 11.
2. 9th 97.
420.
10. 15th 575.
5th 737.

(not his separate property) in the hands of husband
in the hands of the wife, and such is the rule.
It is difficult to receive the principle, on which
the decision is made. It appears to me, that the
money ought to go to the exec^{or} of the husband, if
he would make a suitable provision for the wife.
The Ct. must have perceived this, as a shore in
justice, which certainly was in correct. I think
it was here, the decision of the Ct. would be considered
as more proper.

The rules which I have been considering are the
rules of the Common Law. Those which have been in
force in the State, will be noticed.

It is now settled that the husband is the right
ful administrator of the wife, and in that capac-
ity, receives her increased share in estate, &c.
&c. After he has administered, and paid
off the debts of the common law, he must be ad-
vised to account for the same to her next of
kin. But in 1810, it is now settled
to be decided since no longer liable to account
for it in case of the estate, there is no such
statute as the 2d. 6th. The question then arises,

Husband's right, as adm^r, to the residue of the wife's pers^l property.

Whether he is obliged, in those States to account with the next of kin, as an executor, or whether he is as in Eng^d under the Statute, entitled to the residue. I have raised the question in

4 Co. 51
1 Roll. 100
1 S. & P. 409
Morr. 87
10 Gr. 378
382
3 Ch. 526
1 Vern. 15.
18 Gr. 68

in a pamphlet but the case was compromised without a decision. I believe, it is still undecided in Virginia. My own opinion is, that the husband has no common law right to take the residue; but, where there is no Statute, is bound to account, like any other administrator. Under the Stat. of Ch. if any other person should administer, on the refusal of the husband, he must account for the residue, for the husband. The question, which this Statute was made to decide, has arisen under this Statute of Distribution.

The most ancient doctrine on the subject of intestacy, was this - That when a person died intestate, the king as parens patrie, held the legal title, to his personal property, in trust, as to two thirds, for the relatives of the deceased, and the other third was to be disposed of for the benefit of his soul. As the king could not in person, execute this trust, it was given to the clergy, as the most proper persons. They applied the property to what they called pious uses, and thus accounted ans to God's demands, the

husband's right, as adm^r to the residue of the wife's Choses in action.

The occurrence, and success, were explained.

The first check, given to this abuse, was by Statute of Hen. 2. which gave jurisdiction to ecclesiastical courts against the Bishops, to recover their dues. After which, by the Stat. of Edward 2. enabled them to sue the Bishops, to a special administrator, who were to be the next persons of the deceased, and who came, now, to perform the duties, which formerly, belonged to the bishops. From this Stat. the husband was always held to be entitled to the administration, on his wife's estate.

By a subsequent Stat. of Hen. 2. "the administration was given to the widow or next of kin." But still, the practice of appointing the husband adm^r to his wife, was continued.

There came, in consequence, that as before, the Bishops were not compellable to account, or distribute to the relations of the deceased, they were entitled to the same immunity. And this was so recorded. So that husbands as well as other adm^rs, refused to distribute the residue, which was left in their hands.

For remedy this evil, the Stat 22. Ch. 2. was enacted compelling the adm^r to distribute to the next of kin of the deceased. From this time, it appears that no new obligation was imposed by this Stat. but a remedy given, for enforcing what before ought to have been done. So that the doctrine of Stat. empowering husbands from accounting, was not in affirmance, but in derogation of the Com. law.

Husband's power over the wife's Choses in Action

In several of the State, there is no Statute, giving
absolute principles to the husband, upon which the re-
sults flow to other adms. Supposition however,
that, if the seduction, & have a case, is covered then
can be no action, but that the husband must be
satisfied like other adms.

May 17, 29

The separate property of the married wife by
force of the statute that goes to the husband as
separate, in the same manner as her other prop-
erty. In the case cited, the Chancellor very in-
correctly says the husband takes it as "next
of kin." This is certainly not true. He takes, in
fact, the statute.

P. May, 6, 24

Suppose an accused is wanted to a grand jury,
who afterwards marries, and dies, after an arrest have
occurred, then a case, whether, the accused before
or after execution, is given to the husband by statute.

Dec. 27

He is entitled to a case occurring after execution,
by the common law, the heirs the unfounded of re-
al property, to which the husband was always en-
titled. This Stat. being enacted before the em-
igration of our ancestors, it would seem, was built
with them, to this country.

Right of the husband in the wife's judgment, ^{his} her Chattels-
real and her Real Property, during Coverture, and afterwards.

When a judgment has been recovered in the
name of the husband and wife, for a debt
due to the wife if the wife dies, before the judg-
ment is collected, the judgment goes to him; but
if he dies before it is collected, it belongs to her
and her executors. This is the part of the rule is con-
sistent to the sense of Bacon and some in the
other cases of Power in action, mentioned above.

The whole principle, is it, that the husband be-
comes entitled absolutely, on the death of the
wife, to an uncollected judgment given on a debt
due to her? He takes it undoubtedly by the
joinder—they were joint debtors, and
joint debtors of the judgment. There is certainly
no other principle, on which he can acquire
an absolute title. In some of the States, the
joinder is exploded: and in those
States, if the community of the law is preserved,
the husband must account for such a judgment
as for other choses in action, uncollected in the
husband. If he is admitted to the wife, it will
be spent in his hands, and when the Statute is
in force he cannot distribute it with his
personal estate, as in other cases. This principle
has been recognized and decided in Common Law.

Term. 396.

Husband's power over the wife's judgment - arras, &c.
Suppose a husband submits a claim of his
wife, to arbitration, and an award is made
that the money be paid to him, and he dies,
before it is paid, his ex^r is entitled to it. If
he could sue in a PD, without joining his wife,
the rule would then be the same. The award is
imposed on the old duty, to the wife, and creates
a new obligation, to the husband.

Ans. 522

The husband has a power to release all the
money in action of the wife, during the coverture.
But if the wife has an annuity for life, and the
husband releases that, to the grantor. (the annuity
is real property.) That release will not pre-
vent the wife after his death, from recovering it.

Husband's power over the wife's Chattel Real.

By marriage, the husband becomes entitled to
possession of the wife's chattel real, as of her incorporeal
action. The wife's Chattel real may be taken on
execution, if suing on a judgment recovered against
the husband, though her choice in action could not be.

1. Wray. 270.

2. L. 300.

3. Wray. 251.

4. 46.

5. Rot. 24-25.

6. 315.

7. Post. 410.

If the husband dies, without having assigned
the wife's Chattel real, then it belongs to the wife.
But if she dies first, then, as to the husband, in
what principle, do Chattel real in the estate

Plow. 263.

Held. 3

Ans. 2. to the husband
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of the wife, go to the husband? for the law is different
in regard to her choice in action?

Husband's power over the wife's Character & Name.

It has been said in general, a better this has existed
in those States where the joint tenancy is not in
force? The commentators writers tell us, that the
essence of the husband taking the wife's character
real, is that the husband and wife are in the
condition of joint tenants, with respect to her
character-real. But I apprehend that this posi-
tion is wholly unsound - and that husband and
wife cannot be joint tenants - Joint tenancy
requires an unity of time, and that the estate
be created by act of the parties - and then must
also be one unity of interest. But here, the
title of the wife accrues before that of the husband,
and his right accrues by act of law, and in its
extent, is inferior to hers - since she has ^{separate} the fee.
The truth is then, the common law provision
must apply to us, so much as in & by.

The husband may, for a valuable consideration,
assign of the wife's character-real, in lease or even ^{for life} ^{or for years}
to operate after his death - But such a convey-
ance, if voluntary, would not be binding. But, ^{if he leaves the term for a valuable consideration}
and dies the land is to be paid to his exec. ^{Butcher's Death.}

The husband married a wife who had a term
for 20 years, and made a lease for 20 years for a ^{good within}
certain sum payable to him and his exec. - ^{the ten years.} But
in the case cited seemed to be very much puzzled, to
determine to whom the rent was to be paid. -

husband's rights in the wife's real estate.

by the will, or execution.

The husband has no power over the separate property of the wife whether her interest is a fee, life, or a chattel.

What are the husband's rights in the wife's
Real Estate?

The husband, by the marriage, acquires a right to the management of the wife's estate or interest, or freehold, during the coverture. He has then a fee estate, or one which may endure for his life. The fee remains in the wife as before. CoL. 351.

Any injury by cutting down trees, &c. which is done in violation to the inheritance, the wife must be joined in the action — That for an injury to the usufruct, the husband alone must bring the action.

A wife brings lessee for life — she before afterwards under another lease for life in the name of the husband and wife. CoL. 272
Could the wife have her first lease? No. She could not contract — but a lease made over of the husband. She could have and not make husband and wife joint tenants.

On the death of the husband in the life of the wife, his exec^r takes nothing but the usufruct, CoL. 351.
surviving on the land. To take more he has no right to enter. On the death of the wife, without issue, Wood. 351.
surviving had if no issue alive — the husband has no right to take the estate.

Husband's rights in the wife's Real Estate.

Husband and wife, holding lands in right of the wife, are co-tenants, and the survivor owns the husband's right of tenancy in common: But if the wife survives her husband, is her right of tenancy taken away? It is settled that it is not. Suppose the co-tenancy was before the marriage & after the marriage, the survivor owns her right of tenancy is taken away as well as that of her husband. For she could not have entered before the marriage. After the law of limitations has once begun to run, it never stops.

Granting lands do not require the birth of a child, to entitle the husband to co-tenancy. In common law lands were all helden separately, unless the charter, in grant, said: and the tenure is not altered in this respect, as to the co-tenancy, though as to tenant it is in part. Perhaps it is now so entirely to require the question, after an assessors in distress or any other way, whether the birth of issue would be material.

The husband shall have co-tenancy in the wife's equity of redemption, and in any land or tenement which she owns in common with any other person.

If a few years survives, the husband is entitled to the rent, which some in place of the rent.

It is said, however, in particular that a husband & wife, does not discharge the rent, since it is to be paid by the tenant of the land. This is settled, and is not to be paid by the land or tenement in common.

Husband's rights in the wife's Real Estate.

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Husband's rights in the wife's Real Estate.
in the wife's estate, in relation to her interest in land
to her, which is subject to her possession.

But the common law no leases or leases is
in relation to a wife to her interest in land
devolved to her during coverture. But if there
is a condition annexed to the grant, on the non-
performance of which the deed is to be void,
or of no effect if the condition is not performed
at the time the wife is alive, or if she is
the estate is at an end. This is the distinction which
prevalts in all the cases.

If an estate is given to husband and wife, or
joint tenants, and the husband dies before the
crop has been sown — Who is entitled to the
emblements? The authorities are contradictory. <sup>See 25
Ex. 21. 61.
1841. 204.
1842. 143.
1843. 55.
1844. 109.
1845. 210.</sup> I think the governing principle in the cases
mentioned decides this question in favor of the
executors of the husband. Who was entitled to the
emblements? The husband, without doubt.

If a lease was devised in fee simple, and the
husband dies before reaping the crop sown — the
widow is entitled to the emblements.

Wife's interest in the wife interest of her property, by marriage.

When her own estate is charged for the payment of debts, and on the failure of the personal fund, the wife's paraphernalia are taken — she shall be allowed, in C.B., to stand in the place of the husband, and come upon the fund, to the extent of her paraphernalia.

3d W. 20m.

1st W. 369.

1st W. 729.

2d W. 544.

So too, where the personal estate has been all taken by the specialty creditors, and her paraphernalia are taken — she may stand in the place of the specialty creditors, and come on the fund.

C.B. of C.B. have in such cases, power so far as to issue an injunction against the ex^r, to prevent the sale of the wife's paraphernalia.

If the wife should never take her paraphernalia herself, the ex^r has no right to pay it out as one of her debts to her next of kin.

In some of the States, the real estate is made a fund in the hands of the ex^r after the personal fund is exhausted, for payment of debts. Suppose in any of those States, the personal fund is exhausted, even the paraphernalia be taken before both funds are exhausted? This may be a question which will make some figure in our C.B.

Rights acquired by the Wife on the death of her husband.

By the death of the husband, the wife becomes, by the common law, entitled to one third of all the estate of inheritance, of which the husband was ever seized during the coverture. In this case the common law does not require any actual seizure—because the husband could procure that at any time.

See title Waver This estate the husband cannot deprive the wife of, by seizure, or by any alienation, in which she has not joined. The estate must be such as one as if she had had a child, that child could have inherited. Though it is not necessary that a child should be born.

Other claims in the common law have been made by Statute.

The husband, after marriage leased for a term of years all his estate of inheritance—still the wife on his death, shall be endowed of it. This creates a question in law. Here the wife is only entitled to dower in an estate of which the husband seiz possessed. Notwithstanding this lease, the husband, has ever seized: but the words of the Statute are "of which he seiz possessed." But if apprehended the tenant for years, would he ever, find as his possession.

S. L. 46.

The heir is compellable to give house to the widow within a reasonable time &c.

The wife may be barred after divorce by alien- 12
age, by elopement with an adultress. This however 13
can will not discharge the husband from the pen- 443
sion of an adultress or marriage articles. 3 P. 4. 269.

The most usual mode of barring a woman is the
settlement of a jointure upon the wife before marriage.

This jointure must be real property i.e. an es-
tate of inheritance, or for life of the wife in lands.

It must be so created that the wife is instantly -
on the death of the husband, immediately en-
ter upon and enjoy. It must be a sole settle-
ment and a legal estate made directly to her,
and not through the intervention of any trustee.

It must be declared, in the instrument which con-
veys it, to be made in lieu of dower - For it
will be considered merely as a marriage settlement.

If it should happen that the title to the lands
given in jointure, is defective - The wife has a li- 4th 440
en on the other lands of the person who settled it.

Suppose the jointure was settled after marriage
(being in pursuance of articles entered into before.)

It is not the option of the wife on the death of her
husband to take the jointure, or resort to her dower.

The wife may after marriage join with her
husband in conveying a piece, to her in lieu of dower - 18. 217

and make a void settle- 2
ment in such case and then marry a second wife,
and settle the same on her as a jointure - She shall
not have - for she is supposed to be a volunteer.

So far as it concerns the unit, we proposed to the unit in Dec.

1890. - Place. She had decided to choose whether she
 1891. would accept it or not, instead of her source. Re

1874. 10000 in 10000 in 10000, 10000 in 10000 with
the other, are a continuation of the same.

I had her brought up with her mother, and on
 account of residing in a narrow street with, her kind
 of her father to her mother and then acquiring of the rest
 there with her mother by her own and even and no
 education is made at the night taking the third se-
 cond to her, in her mother's house. One established principle
 is not to let the mother be entitled to her share, in
 which she must stand to her.

Сам. в Библ.
1678.

2. 7/10 P.

I have examined the Chaucer MSS. that I have
 given for a series of years in the MSS. for the night and
 found was a very good one. But the quantity
 of the Chaucer MSS. is very small and is not
 very good. The MSS. is not very good. The MSS. is not very good.

I^d had been made a subscription whether a venture
made in favor of a wife who is now infant will
be the same. The objection is that infants were
not to be bound in their contracts. - But a man
we cannot I think, be considered in the matter.

of a contract: it is a provision made by the husband
for the wife. And I apprehend even if it is to
be considered as a contract, that the wife tho'
she is not bound by it. For if the husband
has allowed her to make the principal contract,
i.e. the marriage it would seem reasonable that
she should also be bound by those which are in
incident to it.

Whatson is given to the wife, without men-
tioning that it is in her power is considered as
a particular gift, and not a dower.

The wife has a right of dower in all the real
passed estate of her husband. And if there were
mortgaged savings covered without her con-
sent, she need not redeem in order to en-
joy the dower. Though if the estate were mort-
gaged before coverture or afterwards with her consent
she would be obliged to redeem, if she wished to be
enjoyed of it.

If she pays the whole amount of the mort-
gage she will be entitled to have the estate re-
deemed & if the mortgage money is repaid to her.
But on this as she has the use of the
estate no interest is to be paid her.

If the husband is convicted of treason the wife
in dower is not enfeoffed.

If she is well then on the wife she is not
enfeoffed, and then must be without her consent.

she may waive the jointure and resort to her dower. If she accepts of the mortgaged premises, the heir must receive the estate, and she will take it encumbered.

If a man leases an estate for life, and then marries and dies, the wife is not entitled to dower in it.

I have seen a question whether the wife shall be encumbered of an equity of redemption, when the mortgage is made before the marriage. Sir Joseph Popham decided that she should, but this opinion has since been overruled. The Supreme & Privy Council have unanimously decided that the wife is not encumbered of such an equity.

The wife of a mortgagor can never be encumbered of the mortgaged premises. True he is the legal owner: but he holds the legal title more as a security for the money lent. In reality then, it is her several property. The mortgage is trustee for the mortgagor: and the wife of a trustee can never be encumbered of the trust estate.

This principle will not however, be admitted to come forward.

Testators often devise lands to pay debts and legacies and then to another person in fee. If the devise dies before the debts and legacies are paid, he is said never to have been seized. And the law considers him as never seized immediately on the death of the tes-

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that since the will will more closely, in the residue,
than the trust is justified.

If the husband owns his land and dies, when he is married,
and his wife are joint tenants she having a right
to have taken the entire with her husband.

(Signature)

Husband's right to property accruing to the wife
during Coverture.

If personal property is given to the wife, not
to her sole and separate use, during coverture, the
husband takes it absolutely. If he dies before it
is paid, it goes to his executor.

If a bond is given to the wife during coverture,
the husband may sue on it without injury to ^{2 Ves. 670.}
his wife. But if the husband dies without collect-
ing it, it is said in Fox, that it goes to the wife. ^{1 Wms. 397.}

But Commons, says slaves the rule, & I think, con-
sists that when the husband may sue alone,
to recover a bond, it goes to his exec. And as ^{2 Penn.}
to property accruing during coverture, the hus-
band could not sue in his wife, in an action to recover
it. ³⁰² ^{See Pa. 205.}

The law always allows the wife to join in an ac-
tion to recover an action of which she is the real
party in interest.

(Signature)

Damages for injuries to the wife's person or property.

These belong to the wife, and not to the husband, whether she is injured with her or not.

If the husband dies before or after injury, & they belong to the wife, since she must be injured in the event. If she dies after injury, then go to the husband.

12th 200.
1 Leon 140
1 R. 246.
6th 501
2 R. 556
1 R. 97.

In case of a fault and battery, the wife may bring an action for maintenance, and the husband an action of trespass per quod servitium amittit.

Writen is acquired by the service of the wife in honor to the husband.

In case of Stauden, the husband may sue alone.

2 R. 587
1 R. 561
1 R. 100
Bull 27.

In crim. con. the action is in form, trespass, &c. & amittit, but virtually it is an action on the case. The wife is considered as having no will. The husband sues alone. If he consents in the adultery he is entitled to no action.

This action can never be maintained, when the husband and wife live separately. The husband may sue for injury to the person of the wife, or to her services.

1 Leon 208.
1 R. 257.
1 R. 582.

1 R. 257.
1 R. 582.

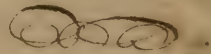
If he has in the vertuous conscience his right to her person.

And therefore receives no injury from her seduction.

The remuneration of his marital rights binds him as far as the contract extends. If he reman-
ces his wife to her property he cannot bring an action
concerning them. The damages recovered in an

action of crim. con. are to be proportioned to the person

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character of the wife, and other parties. The marriage
must be proved.



Power of the husband over the wife's person.

This, it is sufficient, precisely to ascertain. It
was formerly thought that the husband had the
same power to control his wife, which the master
had to control his apprentice. But this has been
otherwise decided in Conn. &

No action can be maintained by husband and wife
against each other, but if one is injured by the other,
the remedy must be sought by a public prosecu-
tion. St. 875.
478.

When the wife elopes from the husband he may
seek and bring her home. And if she is a
virago and seizes his property he may imprison
her. But when she is maltreated and escapes
to her friends, the law justifies them in protecting her.
St. 101.
130.
Moore. 871.
101. 613.
2 Leon.
St. 1021.
3 Hen. 1021.
4 Hen. 1091.

I have already noticed the husband's li-
ability to pay the debts of the wife. The subject
will now be more fully considered, together
with his obligation to perform her duties and
his liability for her torts and crimes, and how far
she is excused for her crimes.

Husband's liability for the debts of the wife.

Husbands Liability for the wife's debts

The husband is liable according to the contract with her or not.

See 157.

In 1866. *Cardwell* for a debt due from her before marriage.

See 158. *See* he is bound to answer this judgment, a full

amount. For the interest the debt is transferred to him.

The husband is not liable on the promise that he has received property by his wife, for then he would be liable after the contract is determined. And it seems could on this ground be liable for the time to the extent of the property received in the marriage. But the debt survives against the wife after the death of the husband, therefore her property could not revert in her. This is the same the case in France when property is transferred by her, so as to injure creditors.

If the wife dies, though the husband has received, and enjoys her personal property, he is not liable to pay her debts.

The true principle of the husband's liability is — not the liability of the wife or her receipt of property by her — but he is answerable because the wife can in no civil suit be taken in execution or imprisoned without her husband. Were she independent she would have no answer for her debts, merely but the absolute dependence on the husband.

of her husband. He must therefore be joined with his wife, that execution may issue against both, and that they may not by imprisonment be separated from each other.

If the husband is discharged, or escapes, the wife must also be discharged. For the law will not suffer her to be imprisoned alone. If the wife is first taken and executed, she cannot be returned in custody alone, for, see therefore a reasonable time to make search for her husband.

St. 1167.
1272.
1 W. 124.
Hamer 96.
2 W. 720.
Yates 495.
Lobell, &c.
175.

If both are taken, and the husband procures bail for himself, the wife must be discharged as a common bail. Though if the wife procures substantial bail herself, she may be discharged, without him.

If the husband is acquitted, and the wife held to bail by the verdict, no indictment lies against her, for it would be useless, for the wife cannot be imprisoned without her husband, and this is the true ground of her inability for her debt.

When this case occurs, her liability ceases. Her debt is discharged, his representatives, and her debt is discharged as well.

But it is said there is a particular case, when, when a married woman who lives on separate maintenance, and is discharged as a common bail, though the husband had remained liable to the same.

But the same rule will not apply to the husband
of his liability for her debts, &c. The same
reason why the husband has no claim as the
husband of his wife living on separate mainten-
ance, is to be found in the article of a statute.

But in this case there was no covenant remain-
ing his credit to her person. The same rule, therefore,
has been decided in such cases.

There is one case, where the wife may sue for
her injuries alone. This is where the suit is
commenced before marriage, against her and with-
out having afterwards. It is not now here the
issue is decided in some cases in which taken in
custody.

116.138.

In the same case in the morning from the
action was brought against husband and wife for
a slander in the wife. The husband died, and the
suit then proceeded against the wife alone. She
married a second husband and the Court inclined
to the opinion that the suit against the wife
abated. But this is opposed to principle and to
the current of authorities. The debt here, in her
own act abates the husband's suit.

It must be said, that in one case, the husband
liability for his wife's debt is not discharged by
the coverture's being determined. It is admitted
that if judgment is obtained against the husband and

except, however, in cases where, for a secret done from her, the husband is liable, after her death. But the rule, in this case is not broken. The reason of the liability is that the secret has been transferred in the husband.

A woman, while alive, bought an article, and gave her note for the value. This came to the use of her husband - and after her death even he could not have the note, though it was not collected during her life.

The rights of a wife below coverture are diminished in the husband's hands. This is a law in favor of the wife, since her chances of having her property from her husband is gone. Should her shares in estate be transferred to his affairs, under the common law.



Husbands liability for Torts committed by the wife before Coverture

The husband is liable for all torts committed before coverture, by the wife, if the damages are collectible during coverture. But the wife cannot be joined with him; for she is liable, and her liability survives after the termination of the coverture.

If the husband join his representative is not liable for acts of a third person.

The tort committed during coverture in the case of the husband the wife is not liable after death. The husband is liable alone.

under his coercion. So if she commits the act, he
 is liable. Therefore though not in his presence the rule
 is the same. This is true of no other relations in
 Society and that of husband and wife. All other
 agents are liable for their acts, though committed
 by command of another.

But in tort committed by the wife - not in
 the presence of her husband nor by his direction or
 request, she is liable, with her husband, who must
 be joined in the suit. And if they are not joined
 "because of the coverture, the right of action survives
 against the husband."

Palmer, Rep.
 by the Editor.

There is a question suggested in the Editor of Palmer
 or reports whether the husband is bound by a
 contract made by the wife, unless he knows that
 she was a feme sole. Such a contract, if true, if
 does not bind him. But if the goods purchased
 come to his use, he may be made liable. But his
 liability does not arise on the promise of a contract
 entered into by the wife. Since, in discussing the cov-
 erture, she seemed to act as his agent. But the
 husband is liable with her on another ground.
 This consent of the wife is necessary to joint for
 which both are liable during coverture.

For the wife's offences against the law or the land,

where the punishment is a penalty the husband is liable. But
 if the wife is fined for a tort the husband is not liable.

Generally the duties due from the wife before marriage must be performed by the husband, after marriage. If the wife has children which she is bound to maintain, the husband must maintain them during cohabitation. If the wife was not bound to maintain them before marriage, he is not bound to do it after wth.

Ex. 118

In the case of John Kay, it was held that the husband is not bound to maintain a child of the wife's, as a former marriage. This is true as a general rule. But so far as it goes to excuse him from the maintenance of children, whom he was before bound to support, it is clearly, I think, a violation of the principle of Donnan & Stone.

But there is a well established exception to the rule that the husband must perform the duties incumbent on the wife before cohabitation.

He is not obliged to maintain her per se, if she was liable before cohabitation. This rule was a supposition adopted for the purpose of maintaining a domestic tranquillity. But it has always been excepted in cases in law, in this country the husband must provide for his wife, if she was liable before cohabitation. This is an established rule.

I have married a female who had a large estate, and she stood during a number of years, she held the husband liable. This is an established rule.

The husband and wife committed in these words,
which is medium prohibition marriage, this is not
fence, the wife.

All things a married property, however a to-
1. Hark. R.S. either - committed in like manner - stand on the
2. 3. 4.
Hark. R.S. same or same.

4. 5. 6. 7.
That the rule does not apply to acts made in or,
i.e. such as would have been crimes, in a full
glorification. To the rule, as it relates to acts made
prohibited, there is an exception 812. Provision, for
which the wife is liable, though committed to rest-
er with her husband.

There is one case in which the wife is liable,
namely, though she may be coerced to act in case
the coercion of her husband. This is where there is
a bad law. The law supposes, I conceive a willing
not in her hand.

35
The wife cannot be an accessory after the fact
when the husband commits a felony - and she
may be an accessory before the fact

DO

Contracts of the wife which bind her husband, but
not herself.

135

The wife may act as attorney for her husband, and
when she acts in that capacity, her husband.

There are two cases in which the husband is bound
for the wife's contract. 1st The agent of the husband
either before, or after the contract is made. 2^d Where
though there is no agent, it is just that the husband
should be bound.

The husband will be bound by all such contracts
of the wife, and she has been in the habit of making
such contracts.

He will be bound by all such contracts of the
wife, as wives in the country usually make. ^{Robt. 200}
makes no difference what the contract is. ^{11th 100}
The wife, however, contracts for the use of the family.
in the country, the husband would be bound in
the contract.

Whenever the nature of the contract comes to the
use of the husband and are voluntarily received
in kind he is bound whether the wife has seen
the goods or has been accustomed to make such
contracts or not. The law requires that the husband
shall do what justice requires. There is no agent
in the case. But in certain cases, as in
marriage cases, where there is no express promise
or a promise where money is obtained by fraud or violence.

It also the husband may be liable for the contract of his wife on the removal of the pecuniary situation of his family. As when he has left the country, and the turning of the family affairs on the wife, or where the husband has become a lunatic, and in this case it is to be remembered, there can be no apert.

The husband is also bound for the wife's contracts for necessaries for herself, when he refuses or neglects to provide for her. This is on the ground of coverture and not of his apert. He is bound in such contracts even if he turns her out of doors, and excommunicates all the world from visiting her. But if she leaves him without reasonable cause, he is not bound, unless he refuses to receive her again. The necessities must be suitable to her rank in life.

If the wife leaves the husband, for reasonable cause, he must pay her contracts for necessities. Since Ch. & Chancery will, on petition of the wife in such case allow her a separate maintenance suitable to her rank, to the portion she brought, &c. and the husband is then no farther liable than to the extent of the maintenance.

1st. Co. 250. If the husband offers to be reconciled, Ch. & will suspend the law as to the wife, - and order the husband to be raised in the court. If it was her fault, it will be returned to him; if not, she will have it in return.

If the wife elopes with an adulterer, the husband is not bound to maintain her; nor is he obliged again to receive her. But such an elope with her husband is barren, it is injurious. But a particular instance not so barren; and here too, I think it doubtful, whether or her power would be.

It is laid down in the books, that if the wife eloped with an adulterer, and receive credit for necessaries, from one who has no notice of the separation, the husband is not liable. This rule, though well established, does not appear to me to accord with principle. When master and servant cannot dissolve their connection, the rule is otherwise.

If an adulteress lives with her husband, he is bound to her as much as a wife. It was held, where the husband of an adulteress was away, and left her in his house, with the family, that a creditor who knew of her unmanly living, could not recover of the husband, on a contract by her for necessaries in his absence. This case in point of principle is opposed to the last rule.

When a duty which the husband was bound to perform for the wife, is discharged by another, the husband is not obliged to pay for it. as if the wife does in her husband's absence and a third person hires her.

There is an exception to the rule, that the wife is not bound to her husband's debts when she is separated.

A wife cannot bind her husband, by deed, unless she has a special authority to do so. But if 6 P. H. 176. She has power to make the contract, the husband is still bound. The security, i.e. the deed, is void, and so there is no merger.

If money is loaned to the wife to purchase an estate, and she does purchase an estate with it, still the husband is not bound, at law. 1 P. H. 176. But Equity & Chancery hold him to be liable, and are a liability to them the good title will retain complete remedy.

Suppose the wife is imprisoned for the commission of a crime, who must maintain her? 1 P. H. 176. The husband in such case is not bound to maintain her with necessaries. The husband must support her - for she must not starve.

15

21. 55.

it would be necessary to the work, a second line has been added
and is ^{the} ~~the~~ as if a house or work given. see the above was
made in pencil and will not be used. It is better
that it show not survive to her.

- mat. v. ^{Le} ~~Arbeits~~
Wagt + 1

Nov. 5. 15. The marriage, placed the elect. in a new position.

South Co. Records until after the reorganization of the com.
5-14-95

[illegible]

Still, however, a bond given by the husband to the wife before cohabitation, conditioned that he will make a settlement upon her, is an acknowledgment by the marriage, in a part of law. But such a bond is good evidence of an agreement to make a settlement, which will be enforced in Chancery. If it was considered as a good bond at law, money would be recovered. That was not the point at the bar. It was merely an acknowledgment for a settlement.

When the husband, before marriage, makes a provision for his wife, binding his self to pay her a sum of money, a release is given, according to the statute, to his self from the obligation to pay this money, was taken not to be good.

A husband who had made no provision in his wife's favor after marriage to her and her heirs, in the purchase of lands to be settled upon her, and it was held that this was not such a voluntary release, as would be set aside in favor of creditors - the agreement being for a marriage provision, in order to set possession of her portion.

There is a husband who had given the wife a bond to pay her a sum of money, if she married him after the 1st January 1753, the 3d of 21st referred to certain cases that he intended this bond as it was a conditional settlement.

The meaning of the common law is that husband and wife cannot contract together. This position is generally assumed. But the reason given for it — that they are one person, is a whimsical one. They certainly are not one person — even in legal contemplation, to all purposes — for the wife may take real property by devise, or descent.

That a husband, a cohabitant of his wife, a husband and wife is not valid. He cannot convey to her, for she is presumed to be under his control. His name may not, however, be used to conveyances in the husband to the wife. Such a conveyance is not, in itself, invalid, for it may be made validly through the intervention of a third person. It is a maxim that what is illegal can not be done circumstantially, any more than it can directly. This is the doctrine that husband and wife are one person. That prevents him from conveying to her. But when the restriction upon him is in violation, our laws will annul it. The husband may, then, convey real property indirectly to his wife — and so he may, by means of a third party, who is not the husband's agent, or is named immediately to his agent.

It has long been settled in England that the wife may hold real estate in severalty in her own right, separate use. But it was formerly supposed that she could not receive this from her husband.

Section 10.

The man, however, called, that he may give prop-
erty to her, for her separate use.

There is a case in Lord Willoughby's The wife carried
to the husband, money which she had received from
sale of her husband's estate, and his executor was compelled
to pay it. But a voluntary conveyance, by the hus-
band to the wife is not good against creditors.

On execution against the husband to con-
vey property to the wife does not bind him.

The wife agreed with her husband to sell her property
for which she was to receive part of the money, to her
separate use. The money was paid, and her part of the
money was put into the hands of trustees, for her
sole and separate use: and it was held to be
incapable to her so that the husband's executor
could not take it. But had not the husband car-
ried the account into execution she could not have
enforced it.

(C. 10)

Agreements to live separately.

17. Section 10. Section 10. Section 10. Section 10.
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enforced it.

real property, and so there, where no conveyance is necessary made at conveyance. If the husband consents to allow the wife on separation a sum of money for her support, he is bound by this agreement.

If the husband, after retaining his right to her person, again attempts to take her, she may be liberated by writ of habeas corpus. And if, after this, he still persists, he is guilty of a conspiracy.

Real property is sometimes settled on the wife by these articles.

But such a security as to the husband's property are not good against creditors. Though they cannot take it at once, if they have other means of finding out their rights. As if the husband is negligent, being able to proceed to have them.

See 3d. 1000
No. 3d. 550.

If the husband is not assisted by the creditors, he is bound to account to the creditors. And if the wife wastes and brings out all the profits, those savings, she may enjoy, as well. But the said profits are not binding to her.

It was formerly held, in some cases, that when husband and wife agreed to live separate, the wife should have a separate maintenance, even when there were no children to maintain. But these decisions have been shaken by later opinions.

2d. 1000
552.

A grant of property to the wife is not necessary. It is not required the wife to be set apart and separate use. In 1775, in order to enable her to it, she must have some other

9th. 68
70 77
1775.
2d. 1000

Barre & Home

17) 18th Dec. The collection among the informers was sufficient.

18th Dec.

497. 542.

19th Dec.

497. 542.

20th Dec.

497. 542.

21st Dec.

497. 542.

22nd Dec.

497. 542.

23rd Dec.

497. 542.

24th Dec.

497. 542.

25th Dec.

497. 542.

26th Dec.

497. 542.

27th Dec.

497. 542.

28th Dec.

497. 542.

29th Dec.

497. 542.

30th Dec.

497. 542.

31st Dec.

497. 542.

1st Jan.

497. 542.

2nd Jan.

497. 542.

3rd Jan.

497. 542.

4th Jan.

497. 542.

5th Jan.

497. 542.

6th Jan.

497. 542.

7th Jan.

497. 542.

8th Jan.

497. 542.

9th Jan.

497. 542.

10th Jan.

497. 542.

11th Jan.

497. 542.

12th Jan.

497. 542.

It occurred to the husband in the state remaining

his visit in the real prospects, especially to consider

it. This is reasonable; but she is not in a position to

even, and his visit is not expected. The circum-

stances of his visit to her person, he can then determine

that now it.

19th Dec.

497. 542.

20th Dec.

497. 542.

21st Dec.

497. 542.

22nd Dec.

497. 542.

23rd Dec.

497. 542.

24th Dec.

497. 542.

25th Dec.

497. 542.

26th Dec.

497. 542.

27th Dec.

497. 542.

28th Dec.

497. 542.

29th Dec.

497. 542.

30th Dec.

497. 542.

31st Dec.

497. 542.

1st Jan.

497. 542.

2nd Jan.

497. 542.

3rd Jan.

497. 542.

4th Jan.

497. 542.

5th Jan.

497. 542.

6th Jan.

497. 542.

7th Jan.

497. 542.

8th Jan.

497. 542.

It is agreed that a provision should be made

if it should become necessary for the husband and wife

to separate was to be decided in 1842. This

decision was much disapproved of. It is said

to be unjustified then to encourage a separation of

husband and wife. This separation was not in the

case in fact, but the point was considered as settled

in the case in London. Then the husband gave the

wife a note, which was to be paid on case he again

visited her. They agreed to separate he and the 18th Dec

the note to be paid. I can not connect this with

the decision, but it may have been an innocent and

justified note, having been advised by a physician, con-

tal and disipated husband.

3rd Jan.

497. 542.

4th Jan.

497. 542.

5th Jan.

497. 542.

6th Jan.

497. 542.

7th Jan.

497. 542.

8th Jan.

497. 542.

9th Jan.

497. 542.

10th Jan.

497. 542.

Of this is an account to live separately, the hus-

band is not discharged from his contract and

continues to receive the wife's aid. This can be

done by a mutual agreement.

11th Jan.

497. 542.

12th Jan.

497. 542.

13th Jan.

497. 542.

14th Jan.

497. 542.

In the case of the present case, the question arose

whether the wife could still have a property settled

on her by articles of separation. The Court held

that the property still remained to the husband and
 that she was not entitled to the use of it. And even
 this, she cannot take, to the injury of Tradition.
 If the wife, in such case, becomes a pauper, he,
 the husband is bound to support her — And for her
 freight or transport he is liable with her.

And he is not liable for her contract, if he allow
 her a maintenance. He cannot, in this case, be
 sued unless he has remanded his right to her per-
 son, for else his right might be injured. As if Ham. 10. 9. 10.

He is not

In the case of Corbet & Pochin - 11 A.C. 1185.
The wife is to be divorced by her husband, who
she lives separate from her husband, in ac-
cording to a decree. The respondent writes con-
fessing that she was divorced on the ground of
the separate maintenance, which was a law-
ful one. But I think it was on the ground that
the husband was by the agreement to live sep-
arately, renounced his right to her person. This
is a sufficient reason for the decision, for in right
of his, could he apprehend that she would not
leave his coercion.

and there is no case which authorizes this
decision if it is based on the ground, which
I suppose it is. I will not introduce a
new principle, but merely apply an old prin-
ciple to the decision of a new case.

I shall mention the cases which it is contend-
ed, overruling the decision in Corbet & Pochin,
but which, I apprehend have not had the in-
fluence effect. It is true, that the opinion
of the House was expressed to that effect in Pratt
in Corbet & Pochin, but the cases which
the decision was not said for an exception
of it. There was a course of decisions, known
to the case of Pratt, Pochin, on the same
ground, which was cited in that case.

In that case, no marital right of her ^{husband} ~~husband~~ ^{husband} could be expected as her contracts, which he-
 ing separate from him are articles — nor could
 she be supposed to be under his coercion. The
 wife was not liable on the ground of her separa-
 te maintenance. This would only excuse the
 husband from obligation, as if she was bound,
 it would only be to the amount of the mainten-
 ance.

If the maintenance was the ground of the
 wife's liability, it would be necessary to have some

2-9-45.
 2-10-79.

unless that in the case of Baron Polnitz. The wife
 was then liable on the ground of the article of sep-
 aration, in which the right to her person was re-
 linquished — & on this principle, we cases are ap-
 plicable to it.

2-10-79.

In the case cited from 2. H. R. the wife
 being under duress coercion. The replication
 admitted the coercion, but stated that she had
 separated from her husband & since separated from
 him, & that the articles were furnished for her
 then are in own credit. Here then were no
 articles remaining in the husband's right to her
 person — the replication was therefore dismissed.

2-10-79. The case cited from 2. H. R. was, I suppose, for
 goods sold, to which I venture was placable.
 The replication admitted the coercion, but stated

that the debt had been paid, & a settlement in S.P.R. 766
consequence of which her husband left her, & she
being then alone, was distressed. The separation
was very properly noticed to be bad.

In the case cited from S.P.R. there were no articles. S.P.R. 670.
It has no resemblance, therefore to the case
of Bachett v. Probert. Lawrence, J. there takes the
true course.

In the case cited from S.P.R. the wife carried off P.R. 694
on the earnings of a haberdashery. She was leav-
ing jointly. There were no articles of separation & it
was the property therefore belonged to the husband.

In the case of Marshall & Kuttner, in the
S.P.R. it was manifestly the intention of the S.P.R. 545.
Court, to overturn the decision in the case of
Bachett & Probert. That the case required
no such decision. If the ground of the deci-
sion in Bachett & Probert, was the separate
maintenance, then this is opposed to it. Other-
wise, it is not. In this case, there were no ar-
ticles to live separately; it was, therefore, rightly
reversed.

The Queen of England may be sued alone, because
she has separate property. But she could not.
I apprehend be imprisoned alone.

There is a case in the 11. B. & D. which is thought
in some, to be opposed to that which I am now -

owner to support. It was an action of trespass brought by the wife for entering her house, and taking her goods. The court granted the recovery of the plaintiff. The plaintiff replied that the husband had deserted her for four years, and was gone to America. The replication was held to be ill: but there were no articles to live separately.

The wife in this case was however from her property in one sense of consequence. That there is no necessary coercion in that case. The case I allude to is by a fine or recovery. But the wife cannot work a contract as to mix her husband's property & own in such the husband must be mixed with the wife, in the fine.

When a wife dies in a debt of her husband with the husband, the debt is not void, but more is recoverable. Hence the new rule is that the wife's contract are void. But this is not true when applied to her real property. Hence the rule is voidable.

In the case of a fine, it is said that the wife is quasi a feme sole, and it is said to be because of a record of the court. But the wife is not a feme sole. For this there is no true reason. But it is necessary to know if the wife is to be treated as a feme sole in the manner of the common law.

The husband & wife have a line of the wife's
land; a son & daughter, an uncle, the wife.
rise of the wife, it was set aside and the whole
the husband & wife, not only as it
respected the wife, but as to the husband's in-
terest also.

The Statute of Henry 8th gives the wife power
with her husband, to make a lease for their lives.

If the wife have a fine with covenants of war-
ranty, she is bound for the covenants.

In 1511. A fine was made between a husband & wife
in which the husband covenanted to give a fine to the wife
and she was bound for the covenants.

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in which the husband covenanted to give a fine to the wife
and she was bound for the covenants.

It has been decided in court that the wife is
bound in her own right to covenants. She
is bound to her husband in her own right, she
is bound to make an covenant to her husband.

In 1511. A fine was made between a husband & wife
in which the husband covenanted to give a fine to the wife
and she was bound for the covenants.

her real property, and the wife was allowed to be
soured. No right as the husband was affected
as that he could not defeat it.

1846. A fine court convey her lands to another on con-
dition that the people occupying her, when she was, and
the land she was concerned in the execution, the
condition is broken if the land is not recovered.
The husband will not win in the consequence, nor will
he succeed.

1846. The husband will win in a conveyance of his wife's
estate, or the husband of a wife, and his right to
the inheritance. But if he has no right, what can
he do? The wife may be a person of a
good, without the possibility of the husband's success.
Why then, do not married women
make conveyances to themselves after the husband's
right shall cease? Because a married estate cannot
be made to commence in futuro. And what can
it be made to be made by way of conveyance, the wife
must be married at the same time with the
conveyance, but the husband's right shall com-
mence with the conveyance.

2. The husband's right to the wife's estate may be
created to commence in futuro. In that case, the
wife's estate shall be made to be made by deed or
will, and it shall be made to be made by deed or
will.

in similar circumstances. Here, then, I suppose
that a will, in case where a married wife is testator,
may convey to the innocent co-defendant whose
interest is in issue.

There is no case which allows the husband to
convey to the wife & receiving real property in her
name. But if he receives it by purchase in the wife's
name & the deed is duly signed. This is the
most perfect conveyance in the husband and the
wife. But even in these cases, the husband is not
always to be trusted. If he attempts to the contrary he would
be liable to pay the debt. If it was a gift, he
would be liable for waste. It is not, therefore, that
he should have the power to convey. The conveyance
is made in his name, not in his name in a case
to the wife.

If a leaseholder executes & receives a deed of
his real property & after execution ^{determines} the lease, the
deed is in force. But it is the same as if he were
to convey all the property that the decision seems to
be made was made. — But I am not sure.
whether the intention was or is? I apprehend the
deed & execution was or is available.

ETC


Wife's authority is absolute & inviolable.

1846. 10. 10. The same reason is given for the fact that the
 the appearance of the substance. It is not that it is
 not to be considered as a new substance, but as a new
 substance, the same as the one which is the substance of
 the same substance. This is the same substance, the
 same as the one which is the substance of the same substance.

There have been all sorts of wild tales come.

In the new newspaper circulation the name of every man, his
 name, &c.
 13. Feb. 1857. as been circulated. The name of John the Bar-
 on who has made his name is that an agent
 of the Liberator is affected. That man his consent
 necessary in refusal might cause an injury to
 himself.

It makes no difference whether the name is written in her name or after her name. The witnesses were of opinion that the wife could not convey in 1857 when the legal title was vested in her as trustee to certain men conveyances when the case in Fox the wife was presumed, and the question was whether a receipt by her for money would be valid — the Ct held that it was.



157

Effect of a conveyance of the wife's real property by
the Husband.

Such conveyances may be made but they operate only as conveyances of the husband's estate in the lands, i.e. a life estate. The wife or her heirs may enter after the husband's death. And the wife would have been the owner if the wife had died, unless it was by force &c. This case should be treated as a conveyance for life.

If an estate is conveyed to the wife during coverture, i.e. in her life, and after the husband's death, was the same done, or confirmed in any place -

If the wife joins with the husband in a conveyance of her real estate, she may, after his death, waive or affirm it. Such a conveyance is much Hob. 349,unavoidable.

Does the wife assent to the conveyance of her estate, during the husband's life? The third point on which principle? The husband has a right to the comfort and the comfort would have been secured to her. The reason is, that the wife was joint owner of the land with the husband, & therefore takes the conveyance by operation of law. Hob. 349.

But when the question of coverture is raised, who should not be in. If the husband should leave the land to his wife, in his own name,

an action would be entitled to the money,
in his death.

Q. 11. 19. If a man be married to his wife, and
she is a widow, & the husband dies, & the wife
suffers the loss, & it is said against her, & it is said
she is liable for the money. This is affirmed
to be a principle of the principle of Bacon & Lane. If
a person who has a share of the property, & is
married, & the husband dies, & the wife is
not liable for this. The husband, however, the
profit, is alone liable for the loss, & so in the
principal case, should be so in the same mind.

It is said in 1. Mol. 248. That if a man is married
to his wife, & the wife is an action, the ac-
tion may be brought against both. But, I
think, that the husband, should be, principally,
the one at a loss.

1. Mol. 248. The husband can never release a contract
made with the wife, which is to take effect
after the determination of the marriage. He
has not, nor can he ever have any right in
such a case, and therefore is entitled to
control over it.

It also, the husband is entitled to the money
of an annuity of the wife: but he cannot re-
lease it, for it is a legal property.

If an estate is conveyed to the wife in course.

condition, & this condition she cannot fulfill,
if the husband does not fulfill it his estate is
gone. This is when the condition is in the law.

But if the condition is annexed to land, &
the wife cannot fulfill it if the husband does
not, then a tax is not dependent. In if a man
will marry her and for his marriage, and the
husband attempts to marry in law, the wife's
estate is not dependent by this based on the
condition annexed to law, to a wife's estate.

In this state much can be at law, as in law
and more to be before the court is said for
the wife of the husband.

Edw D

without releasing them to his possession, this is to
 the wife, with this restriction, that for the
 clothes that come to her after the marriage
 the husband must give a loan in his own name.
 I may observe to the interest of the wife. The
 grant clearly that for these accessories before now
 where she must be aided. For to her, her
 allocation to sustain them. Her name, or a
 loan the wife. It must be given.

There was also in a case before me
 where the woman withdrew, & the debt
 was reduced. The husband could do as well
 as he might. For as that. 37 Dec. 8. This case
 was given to him.

Why may not the wife bring an action in her
 own name, for her clothes? The principle of Mason &
 name would not be violated. For when collected, it
 would be to him, & if he dies it would come to 34. 62
 in. Some say without care that coverture, & the
 wife incurred a disability to sue. This I deny.
 If it were, the wife could not sue during
 the coverture of her husband. But if the wife could
 alone her own name must be disability in a case
 m. But if coverture were a disability, a judge
 in respected in her name would be disability
 & it might be avoided in such. For this cannot
 be done.

The true reason is that the wife is unable to see
beyond her sort, if indeed she could be considered as
able. And it is unreasonable that a married woman
should interfere with a sister by a husband who is unable
to see sort. The provisions of a household would
not enable her to see, since no independent person
can give advice for which should subject her
to interference & abuse.

4. Feb. 186
 12th 4.
 30th 7.
 1st Mar. 9.
 347
 7. Dec. 403.
 1. Jan. 40.

[illegible]

even though the injury is inflicted the wife is the same.
 But if the freehold is injured by the husband, the wife
must be joined. For the action would survive to her.

A recent decision came, on a case of the wife's house
 being covered over. The husband was sued alone for Palm 21;
 it for this recent decision, absolutely, it seems. The rule
 is the same, if husband & wife trade house, & so on.
 in & to the wife.

If there is rent, in a case, before execution, that
 the husband, he is joined to the husband. Of course, he
 may sue alone. But in all these cases, the
 husband may join the wife.

In this case however, there is one exception. The
 husband cannot sue the wife in an action for
 special damage to him, by an injury to the
 wife's person. In all other cases where she is
 the immediate cause of action, the wife must
 be joined in the action. This is the case when
 husband is robbed before marriage and so on.
 unless otherwise.

If the husband & wife join in an action in
 which it may be shown that the husband was a party
 to the wrong, the wife must be joined. But if the husband
 is the only party to the wrong, the wife need not be joined.
 This is a very important question. It is a question of
 fact, and it is a question of law.

...the court ... It
...be entitled to ...

If the wife ...
...the ...
...interest. But ...
...must have been ...
...if she survives the ...
...ought to be considered as a voluntary ...
...right to her. It appears to me to stand on ...
...the same ground with a mortgage taken in the ...
...name of husband & wife when it is settled will ...
...survive to her.

1. 257.
7. 187. 50
I contract made with the wife ...
the husband to ... in the action above it ...
must be express.

If the promise is an implied one the husband ...
must ...
...the promise is implied to the husband.

187. 50
187. 50

It is said in the case cited that ...
...to the wife ...
...the husband ...
...to the wife ...
...the wife ...

the husband. There it is said will survive.
In L. style it is said that in such case,
the husband must join the wife in the action;
this however, is incorrect, & is derived from the same
source from Br. 20.

There is a case in Levin, in which an ac. 2 Lev 63.
had against husband & wife for detaining
the wife. Verdict was sustained, & judgment
recovered against both. Surely the wife could
not be liable on account of a retainer by con-
tract; & if it was by trust it was committed
by her in conjunction with the husband & so
she could not legally be subjected.

and was conveyed to P. & his wife, Br. 20 799.
for life, remainder to the heirs of P. in fee.

Husband & wife entered a lease of the premises
of the action was brought by the husband
alone for not repairing the house. & the J.
held it to be properly brought. This decision
was shortly overruled. Thus the reason re-
cited for it in Br. 20. is not the true one. The
wife in the case had no interest since as
conveyed to the wife in fee & so the hus-
band took a fee.

Husband & wife cannot sue in an action for
the detention of both; the wife is not entitled to recover
damages for the wrong to her husband. But that he must sue alone.
etc.

Where husband and wife must be joined when
Defendants.

If the wife is a party against
the will of her husband, she must
be joined with him, as next of kin, and must be
joined in an action, as defendant, as in
the case of Marshall v. Marshall — as for torts committed in
the common conversation, out of the house, then
separate — or to recover back of a husband's
debts, as in Marshall v. Marshall in Marshall.

Part of the husband, during cohabitation, commits
a crime, in possession of a wife, in violation
of the law, that is a tort, for which he shall
be liable.

If the wife alone, during the husband's absence,
commits a tort, she must be joined
with him when sued.

It is said that if the wife enters with her husband
into a contract, and commits a trespass, that is a tort,
in which she is liable with him. The reason for
this rule is rather explainable — it then is said —
that if the husband, out of the wife, acquire an
estate.

It is said that if the wife, during the husband's absence,
commits a tort, she must be joined with him when sued.
It is said that if the wife, during the husband's absence,
commits a tort, she must be joined with him when sued.

The husband and wife had been married for the
better of the wife, then if she was found guilty
it would be a great deal against her.

The first case, it was said that the husband
and wife had been for a number of years and
supposed to be married in some of the most solemn
ceremonies ever performed. The ceremony of which
was described.

THE

Power of a feme covert to devise, at Common law

The covert had been long considered, under the
title of "feme covert."

Is marriage a revocation of the wife's will.
marriage while sole.

Marriage is held down generally to be a revocation of the will of a feme sole. This rule is not universal, but is the general one. In some cases it is not applied to the operation of the will, and so some are considered as a revocation. But the will will stand as in force.

If the wife having several property & immovables, this property is conveyed to the husband, so that the will can not operate.

If the will be of real property, marriage is a revocation. For at the time of her cohabitation she is incapable of making a will. But if before marriage she made a will of real property, it is not revoked. The husband has the same interest in the land of his wife, both at the time of its receipt or cohabitation, unless in case when the service becomes non compos mentis, & she makes her will. & even in this respect the rule is generally disapproved of.

If I have considered the true meaning of marriage being a revocation of a will, it follows, that if a feme sole has chosen in widow & unmarried, & the husband dies without cohabiting with her, her will will be valid. In these cases she may choose to remain sole, or she may be separated property.

A husband is considered to be a feme sole in respect to marriage. But the husband may confer on his wife the same rights of the common law.

Separate Property of the wife.

There has been some discussion in regard to the wife's separate property, in its full extent; the English doctrine regarding the separate property of the wife that it must, I think, remain sacred.

The English doctrine is, that the wife may have separate property, either personal, or real, over which the husband has no control. This may be set down upon her, to her sole & separate use in the marriage articles, or it may be given to her afterwards.

Formerly such estates were given to trustees, to the use of the wife, who then had the sole control over it. But according to the provisions in the Statute passed in 1800, the husband has no control over it. This however has been decided otherwise, in some English Courts of Equity. The wife may claim her share with this property, as long as she is bound to have the maintenance of the family. This is now settled.

It has been decided, in some cases, that the husband has no control over the wife's separate property, but this has been overruled in the House of Lords. It is now settled that the wife has the sole control over her separate property.

No technical words are necessary, if the intention is apparent to give a separate property. The court will look to the substance of the gift, rather than the form. The wife's separate property is not subject to the husband's debts, unless it is given to him in payment of a debt.

3. 11. 55 The gift of a house "to be paid to the wife" without
 any other words, does not convey a separate property.
 But it has been held that the words "and said wife"
 state one case not an exception.

It has been decided, whether there was or was not
 a surplus the house & of course with a separate in-
 terest to the wife, for her sole and separate use.

3. 11. 56 If there were surplus this might be one. I can tell
 you in the case cited from Lord Mansfield that there was
 no way for the wife to recover more than a quarter.

But it is well settled that the husband is the
 head of the wife, of course with her, during the action.
 Holding the money in when recovered, for her sole
 & separate use.

3. 11. 57 Why cannot she, herself, sue? She is an adult
 being just a little in debt. The reason why she will
 never sue the husband, as a husband and wife, is that
 she, if she failed, would be unable to recover from the
 estate.

The husband himself may sue for the house & it is
 a right which he has.

3. 11. 58 The wife, however, in law, has been held to be the
 separate property - is not her separate property. This
 from the circumstances was held out to be the in-
 tention of the parties.

But it is impossible at law to set at the separate
property of the wife - see *Green v. Green* 10 Q.B. 494 -
It cannot issue against the body of the wife without
the husband.

Where the wife executes an account out of her sep-
arate property for the benefit of her husband, & the trust-
ee informs the husband that he should pay the money
only to the wife, & if she parted the account. The
wife acknowledged that she in some cases the execution of the
husband, but the Ct. proceeded on the ground that she
could be no creditor of her own wife, in regard to her
separate property. If she has the benefit of it she ought
to be paid for her contracts in other way.

If the wife advances her separate property to relieve
her husband in many cases she will be considered as a
creditor in other cases.

If it appears that the wife meant in this manner
to aid in supporting the family, she is not a creditor.
But if husband & wife treated each other as debtor & cred-
itor in regard to his transactions, then on his death, she
will be considered as a creditor. This is the rule of con-
struction in all cases.

Where the husband and wife show that the separate prop-
erty shall be paid to the husband's estate and enforce the
same? If the wife applies in court and requests
the trustee to pay the money to the husband, she cannot
compel him to do so.

Where the wife called on her separate personal property
and put it out at interest in her husband's name
the husband died it was held that this money
was not a gift to the husband. Doubt whether such
an intention was apparent on her part.

Where money is the wife's separate property in the
hands of trustees comes into possession of the husband
with or without the consent of the wife or is he limited
as to the purchase of land this land is not liable to
the trust money that is excepted in the deed or an
equity the application of the purchase money can be proved.
But it was remarked by the Ct that the same rule
applicable to some trustee who purchases for a cestui que
trust. But proof was introduced that the husband
of fraud be introduced to show that the land belongs
to the cestui que trust then is no use of any
warning the fraud.

Whether the wife can dispose of her separate property
as she then has trustee with her money is uncertain.

It is held that the wife's separate property
is not the husband's then are no trustee with her
in the wife's name and the husband's name.

There is a wife who has separate property and
she is married to a man who is in debt and
she is not a trustee and she is not a trustee in debt
and she is not a trustee in debt and she is not a trustee in debt.

25th 452
 12. 2. 95
 3th

When the wife leaves the husband for the separate maintenance she can sue.

The wife, in consequence of a quarrel between them, left her husband, and went abroad. The husband, in consequence of the marriage, had some property, and he made an agreement for the wife to be at the wife. The husband brought suit and action against her, and he proved an intention. He said, "I would not be so glad to live with my wife. But she should have been without any criminal conduct of the wife. The Court ordered to grant an injunction."

Ex parte

Settlements on wives, by minors.

The contracts of minors are not generally binding. But to this rule there are exceptions. Particularly between husband and wife, before marriage, concerning settlements. Some frequently have been made in "Sham" where the husband was a minor.

These settlements are made with the husband, and the wife is allowed to enter into the settlement, and in the marriage the husband is bound to be bound in the settlement.

The husband, the wife, and the settlement are all binding. The husband is bound to be bound in the settlement, and the wife is bound to be bound in the settlement. The husband is bound to be bound in the settlement, and the wife is bound to be bound in the settlement.

I suppose I cannot be more or less interested
and also to be better made in them

Then I can be as much interested as the husband
and more the more of interest is in a way. But
the most important, the nature of their being in
general. If they are not interested in each other
with respect to the wife is a source of the
husband's interest is in the same. It is a
very true. The interest in the husband is
in the same manner as an interest in
the wife. It is then very important, and the husband
is a source of interest.

17 1800

Marriage settlements, before & after marriage.

I cannot be more or less interested in the
husband, for the husband is the wife's
and the wife is the husband's. The more interested
the husband is in the wife, the more interested
the wife is in the husband.

Then I can be as much interested as the husband
and more the more of interest is in a way. But
the most important, the nature of their being in
general. If they are not interested in each other
with respect to the wife is a source of the
husband's interest is in the same. It is a
very true. The interest in the husband is
in the same manner as an interest in
the wife. It is then very important, and the husband
is a source of interest.

17 1800

Then I can be as much interested as the husband
and more the more of interest is in a way. But
the most important, the nature of their being in
general. If they are not interested in each other
with respect to the wife is a source of the
husband's interest is in the same. It is a
very true. The interest in the husband is
in the same manner as an interest in
the wife. It is then very important, and the husband
is a source of interest.

I cannot be more or less interested in the
husband, for the husband is the wife's
and the wife is the husband's. The more interested
the husband is in the wife, the more interested
the wife is in the husband.

... to the ... of the ...
Settlement before marriage, are not voluntary,
 as to be fraudulent against creditors, either prior
 or subsequent. For marriage is a valuable consideration
 then.

(This voluntary conveyance is not fraudulent against
creditors existing at the time it is made, but it is
 at the time of making it. But to make it fraudulent
 against the wife's creditors that is a matter of course.
 except as to the wife's debts, at the time of
 her conveyance.)

But the marriage settlement must not be
 made, as a fraudulent. If it is of the husband's
 interest, the settlement is fraudulent as to some of
 the creditors.

Suppose a husband, on estate of himself, or as trustee
 for his wife, does convey to her, that is, the wife
 is the sole owner, as a wife's estate. But if the husband
 is the sole owner, then the conveyance is fraudulent as to
 the wife's creditors. For the husband's estate is not
 a consideration for the wife's estate, as the husband's
 estate is not a consideration for the wife's estate.
 For the husband's estate is not a consideration for the wife's estate.

There is a case in the marriage settlement
 of a husband and wife, it is called the Marriage Settlement
 recognition of the wife's estate, as the husband's estate
 is not a consideration for the wife's estate. For the husband's
 estate is not a consideration for the wife's estate.

Settlements, in contemplation of Separation for the
wife's Separate Maintenance.

Such settlements discharge the husband from all
 further duty of support to the wife.

But if she becomes a pauper, he must support her
 if he is able. This is not true, however, in cases where
 she can live with persons who, knowing her situation,
 voluntarily board her.

It has been questioned whether the law
 should require separation to be made good from the
 date of the wife's departure, or that she would receive
 the wife's portion. It is settled to support her
 until she gets her separation. But this does not
 follow, and the husband may, in the interim, be
 required to provide for her. There is no
 case which supports the latter position. The
 husband is not liable for the wife's maintenance
 after separation.

Her property is settled by the husband on the wife
 for her separate maintenance, and she is not bound
 to live with him. He has not any power to divorce her
 then, and cannot force the money & discharge the main-
 tenance.

When the husband is married to a wife & her
 property is settled on her, and she is not bound to
 live with him, he is not liable to her for her
 maintenance. But if she is bound to live with him,
 and he is not able to support her, he is liable to her
 for her maintenance.

It was for some time, I was told, a stone to be
a month to the wife of a man. And it is now
in the hands of a man in the nature of a stone.

[illegible][illegible]

Mortgages to L by husband & wife.

There is a very common practice for a husband to take mortgages jointly in his own name & that of his wife. In such case, on the death of the husband, the premises will belong to the wife on the principle of joint tenancy.

But, to whom, would they belong in those parts of this country, where there is no joint co-ownership? In such case, if the husband survives, it is necessary in the light of a voluntary conveyance to the wife - But the question here is - Shall the wife be entitled to the mortgage? Should she receive such, and if so, is it to be considered as a gift to the wife?

Nov 25
2 Nov 26

It is a law of the country, for the wife to receive her share of the mortgage in the same manner as in a conveyance in fee, or other way in this country. It is a law of the country, for the wife to receive her share of the mortgage in the same manner as in a conveyance in fee, or other way in this country. It is a law of the country, for the wife to receive her share of the mortgage in the same manner as in a conveyance in fee, or other way in this country.

Nov 26

Suppose the wife survives her husband, & the mortgage is taken up, some money is to be paid to the wife, & the mortgage is taken up. Suppose the wife survives her husband, & the mortgage is taken up, some money is to be paid to the wife, & the mortgage is taken up.

The husband's position under which the wife must
 have her rights. This is considered as a
 question of law.

Where the marriage is consummated, if the
 husband is gone, the wife is considered as a
 widow, and is entitled to the same rights as
 a widow of law to the husband's estate, unless the contrary
 is shown.

1847-8

Settlement which the wife gains by the mar-
riage

There is no law in a country, but a settle-
 ment is made. How the wife's settlement is ac-
 quired, the place of her birth is her settlement.

If a woman marries, she obtains a settlement where
 her husband is settled. This is without ceremony.

Thurs Inst 374-9. If her husband has no settlement, then it is the wife's home
 in the marriage, but she does not lose it, if she marries.

The common law, which is settled, is not lost
 if the husband is settled. For husband & wife are considered
 as one person. If the husband is settled, the wife is settled to
 his settlement. If the husband is not settled, the wife is settled to
 her own settlement.

It has been a question whether, if the husband
 has no settlement, the wife has not been settled at the time of
 her marriage. But it is now settled
 that she is settled where she is settled. The following
 from the law, it is settled that the law is settled, and is
 settled.

...to the ...
 ...the ...
 ...the wife a ...
 ...are now ...
 ...But ...
 ...the ...
 ...the ...

...a ...
 ...the ...
 ...in ...

...the ...
 ...a ...
 ...some ...
 ...on the point ...
 ...in ...

... (11)

Husband & wife cannot be witnesses for or
against each other See title "Evidence." 49 R. 678.

...the ...
 ...the ...
 ...the ...
 ...the ...
 ...the ...
 ...the ...
 ...the ...
 ...the ...
 ...the ...
 ...the ...

1 Nov. 244.
 2 Dec. 30.
 3 Dec. 25.
 4 Dec. 10.

188.
The wife cannot be permitted to batter her husband, even though her husband is weak. Her right of her children would be affected by it.

Is the principle that husband & wife cannot testify for or against each other; there are exceptions.

It is said that in case of violence by the husband the wife may be admitted to testify against him.

In the wife, as a complaint by her against the husband is enough for violence against her to give her the right to testify.

Feb. 10.
Savoy Co.
Hampshire.

Dec. 1888. I apprehend that it is now settled, that the wife on a complaint against the husband, has the right of the public, for abuse to her, may testify against him. There are exceptions from necessity.

Dec. 29.

In first of May, there is an opinion of the Chancellor, as to this - but it was not a universal decision.

In an indictment against the husband for a possible marriage, the female may be a witness against him, for she is not his wife.

There is a case in Comm. Rep. which seems to carry the doctrine - that the wife cannot testify when the evidence may tend to criminate the husband - a very great doubt. This doctrine would prevent the wife from being a witness, when the husband has been examined to find a fact at the happening of which both were present. For she was sworn to testify, whether or not to criminate her husband. But I never took the time to do so.

Celebration of Marriage

25

And it is now required that every man and woman
should be solemnized in some way; otherwise no man
the world can be regarded.

170

Before the Reformation, when marriage came to
be considered as a sacrament, the celebration of
it came into the hands of the Pope & his
But at the Reformation this doctrine that mar-
riage was a sacrament was rejected. It has
however, had the custom preserved of having mar-
riages celebrated by the clergy. But it still con-
tains, until during the Protectorate of Cromwell
a statute was enacted, taking from the clergy
the power of celebrating it, giving it solely to the
laity of the house.

After the Restoration of Charles 2. the Episcopal
priests were again authorized to marry: and in the
25. Geo. 2 an act was passed regulating mar-
riage, which gave considerable power to the
law of the clergy, and made void all other mar-
riages. This such as are celebrated in accordance
with its provisions.

This statute has not been accepted in this country
as yet. The subject is in the hands of the
law, and it is not yet decided whether it shall
be a binding law. The question is whether it shall
be a binding law, or whether it shall be a binding law.

as the common law or Statute on the State au-
 thority (when others are not expressly made void) is bind-
 ing or not? If they are void, the issue of all
 such marriages are bastardized. For ex: a Cle-
 rgyman in Canon law marries a couple, and of the
 limits of the Sacrament in which he is ordained - is
 the marriage void?

The above opinion is, clearly, that such mar-
 riages are binding as any other; that the
 persons who celebrate them (whether constables, or Clergy-
 men be) in case the penalties which the law imposes.

Marriage is a mere civil contract. I was again
 with celebrated lawyers in imitate Christians
 with no other solemnities, than such as attended
 other contracts. The form was, in presence of three
 witnesses, "I take thee for my husband, or wife."

The Clergy first officiated the sacred cere-
 mony, in the time of Pope Innocent III. I con-
 tinued to exercise it to the exclusion of other rites
 and persons, during the prohibition to the clergy of the

12th 517.
 Sec. 3. 446.
 2. 12th 437.
 12th 479.
 12th 480.
 35.

From that time, until the Restoration of 1660
 it was unlawful for the clergy to marry. Yet, so
 great was the partiality of the people to a custom
 so well supported had continued their attach-
 ment that within the period of prohibition many
 marriages were celebrated by the clergy. The suc-
 cess then came in numerous cases whether such

measures were intended — so as to entitle the
 husband to a suit for a wife sent to the wife's
 house coverture — as the wife & children, after the
 husband's death, to a contributory share of his
 estate — as the husband to a provision for his
 wife, in case of a subsequent marriage, & it
 was held, in all these cases, that they were.

~~~~~

But a  
 confirming Act  
 was passed  
 12 Geo. II. c.  
 37

Age at which marriage may be contracted.

The age at which marriage which will be binding  
 may be contracted is in males 14 & in females 12.

Persons cannot marry at any time. But when after  
 the parties attain the age which the law requires, & if  
 each has the power of disposing of the marriage. But  
 if either does not, there is no need of a new  
 consideration.

I doubt whether one who is <sup>2</sup> under 21 could be taken  
 into consideration.

There has been a great number of opinions on the  
 question whether a marriage obtained by force at 30  
 the force is not legal. I see no reason why the  
 most important of all contracts should not be  
 made valid at 30, as well as at 14 or 12.

It is not possible to say that a woman who is  
 30 years of age is not a woman.

of substance, by force & fraud.

It is said in ~~some~~ the books that a mar-  
riage by such force is voidable & that second con-  
tract, as that a marriage by force is voidable  
but it is now settled otherwise.

Section

### Like, & unlawful marriages, & the consequen- ces, Divorce & Alimony

From the Stat. 22. Hen. 8. we see to have a more  
certain. For this Statute, "no prohibition, exco-  
mmunication, shall impeach any marriage within the  
Lithical degrees." Marriages then, within the Lithi-  
cal degrees, cannot be void. This circumstance

— in a lawful marriage or one formal irregularity  
are the those causes for which the Law will  
annul a void or a voidable matrimony on the  
ground that they were not binding from the beginning.

Relations by affinity are as much within the  
Lithical degrees, as relations by consanguinity.  
The husband is related to all the blood relations of  
the wife & the wife to all the blood relations of the hus-  
band. The Lithical degrees comprehend all re-  
lations in the ascending and descending lines &  
all within the third degree in the collateral — by the  
strict rule of consanguinity.

Section 2. It has been so much said that a marriage by  
force is void, within these degrees, that it is



himself. This was decided in the second trial  
court in accordance to the provisions of the com-  
mon law, in which a contract is considered  
as void ab initio.

Marriage with the wife's sister was forbidden  
by this Statute - the parties being within the third  
degree. But we find nothing in the Statute law  
which says any thing against marrying a wife's  
sister, unless in the lifetime of the first wife.  
Polygamy was not at that time forbidden (ex-  
cept the marriage of such relations) by any of the va-  
lued writers.

By Stat. in Conn., liberty is given to a widower, to  
marry the sister of his former wife. She is in the  
second degree of affinity. A question may arise -  
whether the same law would not permit a marriage  
with the wife's sister's daughter? She is within  
the third degree, though not so nearly relat-  
ed as her mother.

Procedural without a prior celebration will  
not render a subsequent marriage void, as  
providing for the law in Conn.

Indubitably, to render a marriage void  
it must exist at the time of the marriage.  
In all these cases, the marriage may be annul-  
led - & the parties remain a conjugal partnership.  
In such cases, as Conn. the issue are legitimate.





regulated by Statute.

By the Statute, our Superior Court may grant divorce for fraudulent contract—adultery—three years wife's absence, with total neglect of conjugal duties—I have never heard of for seven years. But in this last case, the parties may marry again, without a divorce.

The fraud which will warrant a divorce is not confined to the fraud of concealing corporal misconduct. Other fraud which would avoid another contract is sufficient. Just before the organization of the present 22<sup>d</sup> of October a cause of this description came before the 22<sup>d</sup> of October. The husband had been a woman named a divorce, but that of imbecility, & that no other was authorized by the Statute. This decision was entirely contrary to the practice of the Superior Court when imbecility was correct. The Legislature could not have enacted more imbecility, by the same fraud in the Statute.

By 'adultery,' in our Statute is meant any illicit cohabitation of a married person with another, whether married or single. This is the Common Law adultery, & adulterous fornication what is called fornication is adultery which can only be committed with a married woman.

The three years without absence must be with an intention of the person to leave his or her family.

2 Nov 12  
2. 28. 78.  
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If the husband leaves the wife out of doors & I will  
and he that she cannot live with him & is weary with  
an absence of the main of a divorce  
The divorce is granted because she has been caused and is  
unhappy matrimonial. But in such a divorce, is the  
wife the innocent party?

True the wife is the innocent party. The fault was  
a crime to her, a fault not excusable if of the husband  
to be proved. & this does not bar her right to Divorce.

If the parties are within the legal age of divorce is necessary.

For some other than the cause mentioned above  
application must be made to the authorities, as for  
example. They divorce either a vinculo matrimonii.

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The subject of the following is the same as the

above.

2000

I must have a married person

or administrator, as the same is

to administer as though he was in co, or as

nothing to be in the same name.

If he is administrator he must be a man, with

no other person. But it is said in the law books

that the same person may be both a man and

both a man and a woman, as the same is

it is said in the law books.

The same person may be both a man and

both a man and a woman, as the same is

both a man and a woman, as the same is

both a man and a woman, as the same is

both a man and a woman, as the same is

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both a man and a woman, as the same is

Miss 277 of an estate without her husband's consent.

But according to the more modern sense  
it would seem that she may administer  
without his consent.

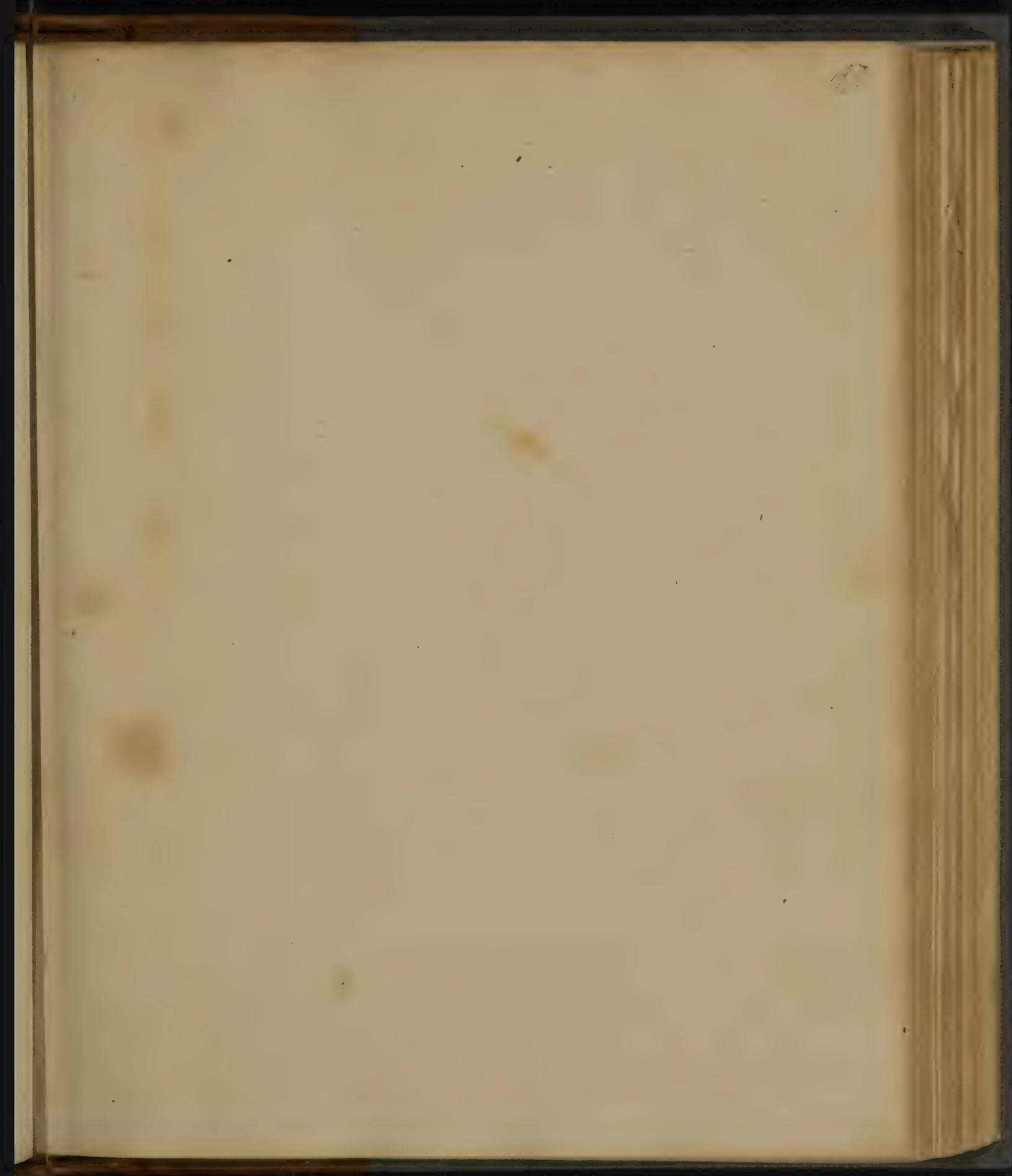
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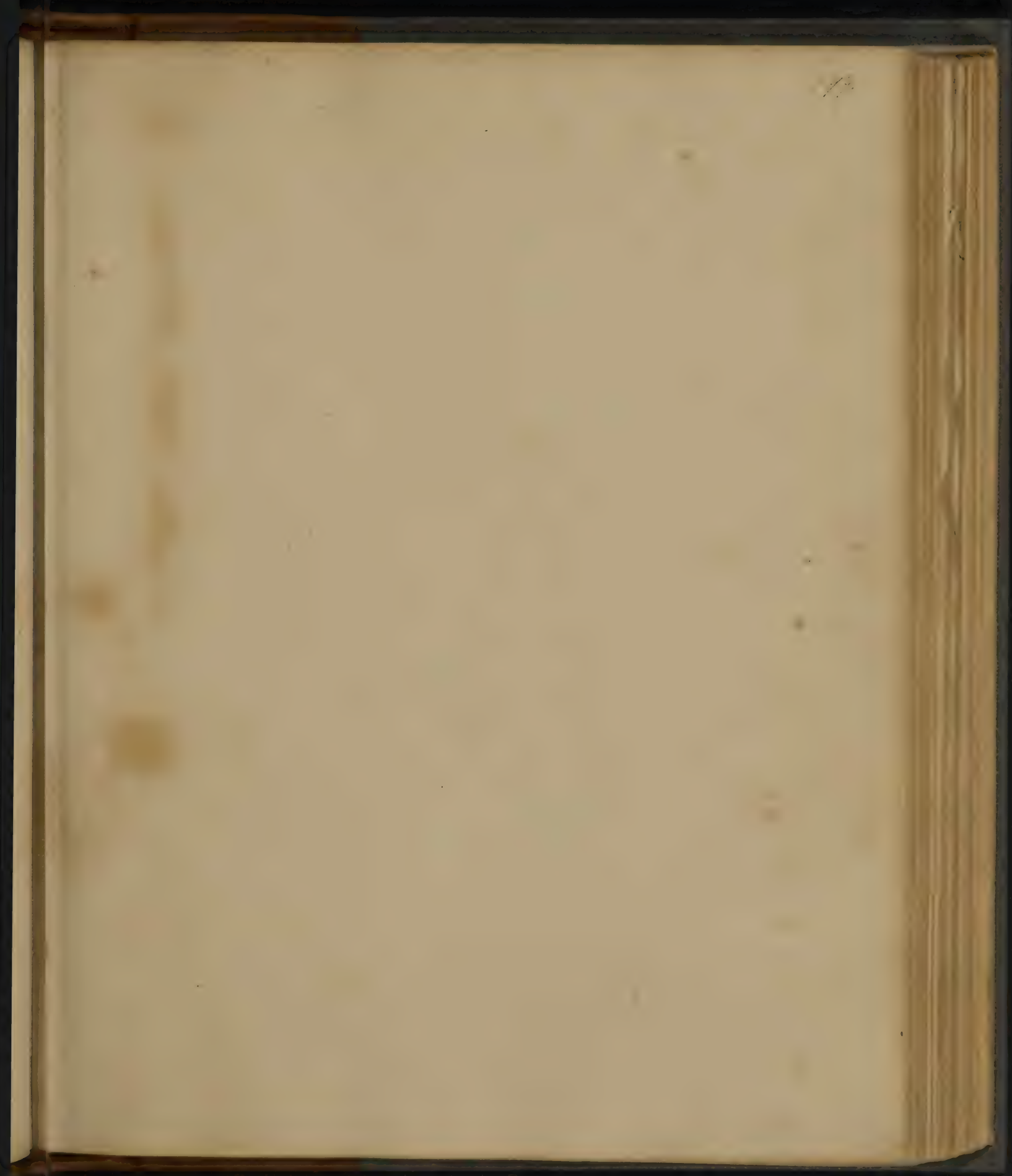
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188











202.



Das untere, aus feinem, weissen Sande bestehende, ist durch  
einen feinen, weissen Sandstein bedeckt.

[illegible]

the infant is answerable for his own conduct.  
his liability does not arise in his parent's case.

But where the infant is bound, must not  
some be answerable in respect to him? But he will  
be answerable to the amount of their value to him.  
And if the infant wishes for a coat of fur or some  
of proper quality of cloths to give double the worth  
of it, he will not be liable for the real value. But  
for an infant's purchases, clothes or credit, which  
are not suitable to his station in life, shall he be  
bound at all? Some say not at all. But is  
the superior cloth of no value? Yes. If an answer  
his purpose is well as a horse coat. The answer  
therefore to be liable to the amount of the value of it  
to him. I know of no law which inflicts a penalty  
on him who buys a minor in property. The  
minor must therefore be liable to that extent.

It appears to me that it is in answer to say that  
the minor is liable on his express contract, or some-  
times liable in any opinion on the implied  
contract to the amount of the value he has received.  
This answer is really on a quasi contractu contract. This  
is illustrated by the last example. The minor is  
always liable by the spirit of the law.

It is his duty in the first place that if a minor  
has any money or property he must not give it away  
or sell it. But he is not liable for his own purchases  
or for his own credit.











to a person who is a stranger to him as a  
 friend or enemy. Now the law is not  
 showing me a special distinction, which is  
 special for nobody. This is the reason that in old  
 after a time the law is shown to be a common  
 sense and not a law in the law.

1780

Contrasts which minors are capable of entering  
into in law or otherwise not be necessary.

There are certain contrasts which infants are allowed  
 to make of which only will exempt them to pay them;  
 and when it is a matter of common justice, then that  
 will be the basis of decision and if they are not  
 unequal. Thus an infant is permitted to make  
 partition: if he says that a particular thing is his  
 portion is made to his own satisfaction, he shall  
 not be bound to it. So an infant may make a conveyance  
 of the most free manner, or even a contract, if it  
 is a contract for necessaries. If he says that  
 a contract is made, his act will be a valid one, if done  
 for an infant. The principle in all these cases is  
 that the infant has some reason, and he will not  
 be bound to it. So if he says that a contract is made  
 in a matter of justice. So if he makes a contract  
 for necessaries, his act will be a valid one, if done  
 for an infant. If he says that a contract is made  
 for an infant, his act will be a valid one, if done  
 for an infant.

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*[Faint handwritten notes]*

1871

2 Dec 1913







[illegible]

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[illegible]

It is to be done in some other convenient manner  
to ensure security from which he derives a great  
benefit. The disease, in the case of the infant  
is, on account of the infant.



23

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1871. 1872. 1873.







When infants contracts are void & when voidable  
only, considered.

There is some difference in authorities from the  
ancient writers when infant contracts are void &  
when voidable only. It is difficult to ascertain  
which the true rule on the subject.

Undoubtedly one of the most experienced commentators the  
lawyer would sustain the ancient contracts of infants &  
that rule seems to be that "when they do not take effect  
in legal natural delivery, they are void, otherwise they  
are voidable only." The opinion of Lord Mansfield  
corresponds with this, as also do the other authorities.

If a minor makes a gift of an estate or  
any of the estate, this has always been held to be  
voidable only, & the proper rule must be treated  
as a principle of law as it is with regard to  
making of personal property. The latter can never be  
made a gift of by the infant, except in the  
case where he could not have the benefit of his own

these authorities in treating the matter as a wrong  
done as if there be danger of the latter at once up!  
But if a minor makes a gift of the estate to be  
held in trust for a certain purpose, or to be used for a  
certain purpose, the contract is valid, & proper if it is for a  
good purpose.

When there is an intention to give for the purpose  
of a gift of property it is valid, it is voidable & not  
void. The intention is not one which requires proof  
by the donor, it is always void, & a gift of property.





1. because no  
 condition of law  
 is shown to  
 justify  
 Sub. 279.  
 Sub. 28. 26.  
 700/720.

I have it in this name in opposition to this rule  
 that a general bond is void. I have of no opinion  
 which establishes this whether it is a contract or a  
 condition precedent or a condition subsequent. It is a contract  
 which the agent is required to perform, not a condition  
 precedent. There are some cases in which it is  
 so to show that a general bond is not void when  
 given for an agent. But when an agent is in his  
 will to do his duty to his principal, a general bond  
 for an agent is not necessary to be paid as well as  
 others. But if the bond was void it is inconsistent  
 of ratification.

Sub. 28.  
 220  
 200/220  
 700/720  
 1. 7-138/75

There is a bond in need to recover money upon it  
 it certainly has the appearance of being a contract  
 that the agent is bound to do his duty. I have not seen  
 a general bond which is void. I will not see  
 whether in giving the bond and of such the right  
 to be void is not void as a condition. It must  
 be in mind that the contract is every case where  
 the contract otherwise is not void of its condition  
 that it is not void as well.

3. Bore 1897  
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It is a contract, in fact, and is not voidable.  
 I have seen some cases where a bond is void.  
 It is a contract to perform a condition and is void. It is  
 only voidable.



Time when infant's voidable contracts may be  
rescinded.

The rule is that when an infant contracts, one  
kind or accident, this may be rescinded by the  
minor both before & after arriving at 21 years.  
So he may return an absolute one, rescinding for  
usual property at any time.

But in rescission of real property in relation to  
the contract cannot be rescinded until the infant  
is come of full age. The reason given for this rule, is  
not satisfactory to my mind. If an infant convey  
land to B. before arriving at full age, return up  
on it, & afterwards convey to D. land still a min-  
or, and when he comes of full age, rescind the  
conveyance to B. & rescind it is said that it is  
till in favor of B. to B. for says then, the contract  
& second conveyance was made at the same  
time. Doubtless when the minor rescinds  
the first contract, he rescinds of his title so that he  
cannot set up a title against the infant.  
This then could be not known to a third.

If an infant has a piece of land, and he  
conveys it to B. before he comes of age, & he  
rescinds it, he must of course. His right is  
lost by the rescission.

If an infant will avoid himself of his interest in  
land, paid at a conveyance, and he rescinds it, he  
loses his interest.

1<sup>st</sup> When a decree in Chancery is made against a person  
 and he has in the meantime after arriving at full age  
 to impeach the decree either for fraud or error.  
 2<sup>nd</sup> An infant if he comes in a decree previously  
 to his majority except where the decree has  
 been made with improper conduct.



Students' liability for crimes & torts.

Students are liable for crimes & torts. In the case of crimes, the student is liable for the crime itself, regardless of whether or not the crime was committed in the course of a school activity. In the case of torts, the student is liable for the tort itself, regardless of whether or not the tort was committed in the course of a school activity. The liability of students for crimes and torts is a complex issue, and it is important to understand the legal principles that govern this liability. The following are some of the key legal principles that govern the liability of students for crimes and torts:

- 1. Crimes: Students are liable for crimes committed by them, regardless of whether or not the crime was committed in the course of a school activity. This includes crimes such as murder, rape, robbery, and theft.
- 2. Torts: Students are liable for torts committed by them, regardless of whether or not the tort was committed in the course of a school activity. This includes torts such as negligence, intentional torts, and strict liability torts.
- 3. Liability for crimes and torts committed in the course of a school activity: Students are liable for crimes and torts committed by them in the course of a school activity, regardless of whether or not the crime or tort was committed in the course of a school activity. This includes crimes and torts committed by students while they are on school property, during school hours, or while they are participating in a school activity.
- 4. Liability for crimes and torts committed outside of a school activity: Students are not liable for crimes and torts committed by them outside of a school activity, regardless of whether or not the crime or tort was committed in the course of a school activity. This includes crimes and torts committed by students while they are on private property, during non-school hours, or while they are not participating in a school activity.

Students are also liable for crimes and torts committed by them in the course of a school activity, regardless of whether or not the crime or tort was committed in the course of a school activity. This includes crimes and torts committed by students while they are on school property, during school hours, or while they are participating in a school activity. The liability of students for crimes and torts is a complex issue, and it is important to understand the legal principles that govern this liability. The following are some of the key legal principles that govern the liability of students for crimes and torts:

- 1. Crimes: Students are liable for crimes committed by them, regardless of whether or not the crime was committed in the course of a school activity. This includes crimes such as murder, rape, robbery, and theft.
- 2. Torts: Students are liable for torts committed by them, regardless of whether or not the tort was committed in the course of a school activity. This includes torts such as negligence, intentional torts, and strict liability torts.
- 3. Liability for crimes and torts committed in the course of a school activity: Students are liable for crimes and torts committed by them in the course of a school activity, regardless of whether or not the crime or tort was committed in the course of a school activity. This includes crimes and torts committed by students while they are on school property, during school hours, or while they are participating in a school activity.
- 4. Liability for crimes and torts committed outside of a school activity: Students are not liable for crimes and torts committed by them outside of a school activity, regardless of whether or not the crime or tort was committed in the course of a school activity. This includes crimes and torts committed by students while they are on private property, during non-school hours, or while they are not participating in a school activity.

25. 15. 20. 25. 30. 35. 40. 45. 50. 55. 60. 65. 70. 75. 80. 85. 90. 95. 100. 105. 110. 115. 120. 125. 130. 135. 140. 145. 150. 155. 160. 165. 170. 175. 180. 185. 190. 195. 200. 205. 210. 215. 220. 225. 230. 235. 240. 245. 250. 255. 260. 265. 270. 275. 280. 285. 290. 295. 300. 305. 310. 315. 320. 325. 330. 335. 340. 345. 350. 355. 360. 365. 370. 375. 380. 385. 390. 395. 400. 405. 410. 415. 420. 425. 430. 435. 440. 445. 450. 455. 460. 465. 470. 475. 480. 485. 490. 495. 500. 505. 510. 515. 520. 525. 530. 535. 540. 545. 550. 555. 560. 565. 570. 575. 580. 585. 590. 595. 600. 605. 610. 615. 620. 625. 630. 635. 640. 645. 650. 655. 660. 665. 670. 675. 680. 685. 690. 695. 700. 705. 710. 715. 720. 725. 730. 735. 740. 745. 750. 755. 760. 765. 770. 775. 780. 785. 790. 795. 800. 805. 810. 815. 820. 825. 830. 835. 840. 845. 850. 855. 860. 865. 870. 875. 880. 885. 890. 895. 900. 905. 910. 915. 920. 925. 930. 935. 940. 945. 950. 955. 960. 965. 970. 975. 980. 985. 990. 995. 1000.

The infant is not yet able to walk. It is not yet able to stand. It is not yet able to sit. It is not yet able to crawl. It is not yet able to speak. It is not yet able to think. It is not yet able to feel. It is not yet able to love. It is not yet able to hate. It is not yet able to live. It is not yet able to die.

The infant is not yet able to walk. It is not yet able to stand. It is not yet able to sit. It is not yet able to crawl. It is not yet able to speak. It is not yet able to think. It is not yet able to feel. It is not yet able to love. It is not yet able to hate. It is not yet able to live. It is not yet able to die.

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The infant is not yet able to walk. It is not yet able to stand. It is not yet able to sit. It is not yet able to crawl. It is not yet able to speak. It is not yet able to think. It is not yet able to feel. It is not yet able to love. It is not yet able to hate. It is not yet able to live. It is not yet able to die.









But I like you well in the conversation which is directed  
 to the subject of our mutual improvement. I feel  
 as if I had a new acquaintance. You are a person of  
 the right kind to give me advice. You are a person  
 who is a good deal of a man. So, if you are a good

(110)

Nov. 25. 1862  
Dec. 1. 1862  
Jan. 1. 1863  
Feb. 1. 1863  
Mar. 1. 1863  
Apr. 1. 1863  
May 1. 1863  
June 1. 1863  
July 1. 1863  
Aug. 1. 1863  
Sept. 1. 1863  
Oct. 1. 1863  
Nov. 1. 1863  
Dec. 1. 1863

The Commission is now in session, and will not adjourn until the 1st of January. It will not adjourn until the 1st of January.

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Nov. 1. 1863  
Dec. 1. 1863



The court has held that the rule is not applicable when a person  
is made a party to a suit by a third person. In such a case  
the court will not allow a third person to be added to the  
suit after the trial has commenced. If a third person is added  
before the trial, the court will allow it. The court will also  
allow a third person to be added to the suit after the trial  
has commenced, if the court is satisfied that it is necessary  
for the proper disposition of the cause.

The court has also held that a third person may be added to the  
suit for the purpose of joining in the trial, if the court is  
satisfied that it is necessary for the proper disposition of the  
cause. The court will also allow a third person to be added to the  
suit after the trial has commenced, if the court is satisfied that  
it is necessary for the proper disposition of the cause.

If the court is satisfied that a third person should be added to the  
suit, it will allow it. The court will also allow a third person to be  
added to the suit after the trial has commenced, if the court is  
satisfied that it is necessary for the proper disposition of the  
cause. The court will also allow a third person to be added to the  
suit after the trial has commenced, if the court is satisfied that  
it is necessary for the proper disposition of the cause.

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suit for the purpose of joining in the trial, if the court is  
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satisfied that it is necessary for the proper disposition of the  
cause. The court will also allow a third person to be added to the  
suit after the trial has commenced, if the court is satisfied that  
it is necessary for the proper disposition of the cause.

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31st 184

the court is not bound to follow the decision of a lower court in a case of this kind. It will follow the decision of a lower court in a case of this kind only if it is a case of first impression.

See 100  
101  
102

The court is not bound to follow the decision of a lower court in a case of this kind. It will follow the decision of a lower court in a case of this kind only if it is a case of first impression.

I suppose an infant is said to have no perception. & he suffers judgment to go by default, & then reverses it ex parte volis, he eludes justice, & escapes for that time. But if the perception refuses to appear, & there is no mode of compelling him to appear, it is useless. The consequence of this is no winning for the suit.

See 100  
101

But it has been made clear on this point by some decisions that it is not error when the perception is not made.

See 100  
101

The court is not bound to follow the decision of a lower court in a case of this kind. It will follow the decision of a lower court in a case of this kind only if it is a case of first impression.

See 100  
101

The court is not bound to follow the decision of a lower court in a case of this kind. It will follow the decision of a lower court in a case of this kind only if it is a case of first impression.



The first is a common case, where the subject is a person  
 from one of the eight states, and that person is a part of  
 the eighth of the other. And if the subject is a person from  
 the same state, and a part of the same state, then the  
 subject is a part of the same state, and the subject is a part of  
 the same state, and the subject is a part of the same state.

The second is a case where the subject is a person from  
 the same state, and the subject is a part of the same state.

Legitimate - illegitimate children.

A legitimate child is defined to be one born in wedlock  
 or within a proper time after the marriage. An illegitimate  
 child is defined to be one born out of wedlock, or  
 at any time. Both these definitions are inaccurate &  
 will not answer all cases. A child may be born  
 in wedlock, and yet not be legitimate as if the  
 husband had had the wife. If the husband after  
 cohabitation with another wife of wedlock was  
 illegitimate.

50, 78  
 20, 78

The first little is a case where the subject is a person  
 from one of the eight states, and that person is a part of  
 the eighth of the other. And if the subject is a person from  
 the same state, and a part of the same state, then the  
 subject is a part of the same state, and the subject is a part of  
 the same state, and the subject is a part of the same state.

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 20, 78

...the ...

All services which in the ... were  
most advised ... the ...  
a ... for ... is ... the ...  
are not ...

Page 35  
1844  
215

The ... the ... the ...  
... a ... the ...  
... a ... the ...  
... the ...

The ... that ...  
he said ... the ...  
... the ...

Page 36  
1844  
215

It is ... in a ...  
... to have the ...  
... that ...  
... it would ...  
... the ...  
... to have her ...  
... where the ...  
... the ...

The ... the ...  
... the ...  
... the ...

The ... the ...



... of the children of their mother ...  
... after their death ...  
... which they have ...  
... which will be ...  
... the their death ...  
... between different ...

... families ...  
... So that ...  
... and ...

... the parties ...  
... the ...  
... except ...  
... the ...  
... the ...  
... the ...

But if there is a voluntary separation by article ...  
... the ...  
... the ...  
... the ...  
... the ...

... the ...  
... the ...  
... the ...  
... the ...  
... the ...

257

287  
Doubtless the account is true.

卷之三

184-20. The eagle on rock is seen with its mate the hawk with  
its mate, & has a small hawk within the circle. The eagle  
has a small lighter of the two hawks.

5-24

When the points of a white beam before sunrise  
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1895

[illegible]

52

[illegible]

2. Hs

1. 8<sup>th</sup> Dec. 1858. The weather was very cold and the wind was from the north. The water was very rough and the boat was very much tossed. The boat was very much tossed.

183.5



and of the... the first  
was... was not...  
to... the... service.

It has been contended, that such a limitation to the  
abstract case of a woman, would give the estate to her if  
legitimate child - because at the moment of her birth  
no service. The reputation of being her child, but he is  
out of an another ground, viz. that the probability is  
in so much that she could have illegitimate offspring

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the... the... the...  
the... the... the...  
the... the... the...  
the... the... the... Statute

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26. Portrait of a Child.

It is a portrait of a child, and is a very fine one. The child is a boy, and is about 10 years of age. He is a very handsome child, and is very intelligent. He is a very good student, and is very fond of books. He is a very kind and gentle child, and is very popular among his friends. He is a very brave child, and is very fond of sports. He is a very cheerful child, and is very fond of playing. He is a very good child, and is very much to be admired.

The woman married. I think her husband was a very good man, and was very kind to her. She was a very good mother, and was very fond of her children. She was a very kind and gentle woman, and was very popular among her friends. She was a very brave woman, and was very fond of sports. She was a very cheerful woman, and was very fond of playing. She was a very good woman, and was very much to be admired.

The woman was a very good mother, and was very fond of her children. She was a very kind and gentle woman, and was very popular among her friends. She was a very brave woman, and was very fond of sports. She was a very cheerful woman, and was very fond of playing. She was a very good woman, and was very much to be admired.

The woman was a very good mother, and was very fond of her children. She was a very kind and gentle woman, and was very popular among her friends. She was a very brave woman, and was very fond of sports. She was a very cheerful woman, and was very fond of playing. She was a very good woman, and was very much to be admired.

In the  
in the



Obligation of parents to support  
their children.





There is a law in nature

That surely however ~~strongly~~ tends with the  
conduct.

That there is an opinion entertained by  
many that the husband is bound to maintain  
his wife, & that she is bound to obey him  
when he wife is able to maintain him as well  
as herself. This is certainly not true. But the  
obligation of the husband is ever temporary & is not  
that of the wife. The opinion was probably given  
as one of the first that husbands often abuse  
their power & authority. The principle however is  
true.

It is not necessary to say that the law  
does not intend to protect the maintenance of  
the husband, but that the law does not intend  
to do it. If they are joined. But if the law  
opposes them, then the law is not joined.

It has been determined that where a man  
and wife are joined in maintenance, the wife is  
bound to the husband as opposed to principle  
is probable law, but as a matter of principle  
as matter of maintenance.

It is now <sup>2</sup> settled that Protestation is a  
part of the power granted to the husband.  
There are various things which must be  
done to see how the relation stands.

individual to the Judge, & 200 which  
is then made subject to the order of  
maintenance. & a parent may institute  
a father in defence of his child, & he may  
be entitled to claim whatever the child may  
have been entitled to receive.

Concoction is another suit once from  
parent to their children. But this suit is  
not enforced in Sub. further than that the  
maintenance of the poor may be made out and  
are who are entitled. I direct concocion in  
the instance, that the mother shall have  
leave to receive it.

In the Eastern States, the poor have  
been put under some other name, parents  
to have their children to receive it and  
I also to instruct them in regard to the  
state of affairs.

There is a provision also that the  
children shall be brought under the  
provision which is made for the poor, as  
to the name of the parent of the  
poor call as the law.

of this suit is another for the poor  
and the maintenance of the poor may be made  
to be the children from the parent.



... to be brought.

These certain provisions are now  
here which are documented in the Blue  
Book of Government. See more in more  
the same place — but it is not in the  
last but all are new and things.

## Parents visit to govern their minor- Children.

There is no doubt that the right of  
government ought to be vested in Parents.  
The rule is that their majority should  
bind their children.

The law will protect a child from the  
harassment of a barbarous parent or minister.

The parent should be considered as acting  
in a judicial capacity: - his opinion of  
the punishment, whether moderate or not, ought  
to be respected.

Where there is evidence of an unreasonable  
parent, the parent ought to be punished: but  
more care of opinion should be exercised.

There is a common plea of conscience  
to resist the law: but the law is  
what the majority is what is the con-  
science of the nation: and it is with  
this conscience.

It is said by Prof. B. that the law  
can never be made unconscionable.

With us the majority is what binds  
the parent who majority is what binds  
the parent.



The first of these is the fact that the  
 the first of these is the fact that the  
 the first of these is the fact that the

The second of these is the fact that the  
 the second of these is the fact that the

The third of these is the fact that the  
 the third of these is the fact that the

The fourth of these is the fact that the  
 the fourth of these is the fact that the

The fifth of these is the fact that the  
 the fifth of these is the fact that the

The sixth of these is the fact that the  
 the sixth of these is the fact that the

... which we have not yet been able to  
attempt to do. It is a very common  
idea to see to the point of view, and  
with the necessary consequences. The  
idea is that it is to be a service  
to the nation, and to the people, and  
the more we are not able to do, the more  
we are able to do.

Admission  
232  
233  
234

... which we have not yet been able to  
attempt to do. It is a very common  
idea to see to the point of view, and  
with the necessary consequences. The  
idea is that it is to be a service  
to the nation, and to the people, and  
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we are able to do.

See

... which we have not yet been able to  
attempt to do. It is a very common  
idea to see to the point of view, and  
with the necessary consequences. The  
idea is that it is to be a service  
to the nation, and to the people, and  
the more we are not able to do, the more  
we are able to do.

Admission  
232  
233  
234









The old distinction between a child in arms & an infant is, whether they were intended to take part in present or in future, are now at the end of the former now occurs settlement, that it can never be the intention of a decree that the infant shall take before he is born.

It has now become very common for a court to come out of this estate, & to say, for example, to create portions for many or children. By the law says that portion the law is at an end.

Pr. Ex. 56.  
18. M. 240.  
142

### Settlement of Children.

This subject is in a great measure regulated by what also in the several States is understood there. It is necessary to be acquainted with the common law rule.

Before having done in a manner has a settlement established. It was formerly decided, so it was the decision whether a child being a settlement or not in a place where it is born. But it is now a rule that if the parents have no settlement within the United States, the place of the child's birth is its settlement. But if the parents have a settlement, the settlement of the child follows that of its parents.

By an act from N. York, removed into Canada & before acquiring a settlement here, a child is born, the settlement of that child is in its father's settlement in N. York.

By the same law as settlement, the settlement of the mother is

The matter of the settling of the estate of the deceased is a matter of great importance. It is a matter which affects the rights of the survivors and the benefits of the estate. It is a matter which should be carefully considered and properly managed.

The first thing to be done is to ascertain the value of the estate. This is a task which should be entrusted to a competent person, such as a surveyor or a valuer. It is important to know the value of the estate in order to determine the rights of the survivors and the benefits of the estate.

Next, it is necessary to ascertain the claims of the creditors. This is a task which should be entrusted to a competent person, such as a lawyer or a creditor. It is important to know the claims of the creditors in order to determine the rights of the survivors and the benefits of the estate.

The final thing to be done is to ascertain the rights of the survivors. This is a task which should be entrusted to a competent person, such as a lawyer or a creditor. It is important to know the rights of the survivors in order to determine the benefits of the estate.



When children are in existence in their own right  
to the mother, and in a common settlement, I think  
more for them, than for a common settlement, and  
in a settlement, I think more for the mother.

Suppose the mother is married, and is married  
to her husband, and is married to her husband, and  
her first husband, and is married to her husband,  
as married. But if any of them has more  
years of age, then cannot be separated from the mother,  
but must be maintained in the same way  
the mother, and the father, of the same way, and  
are settled.

9. 5th  
179  
35th 179.

If the husband of the woman is bound to maintain  
her children by a former marriage, I suppose  
that this would cause a settlement, in the place  
where the mother is settled. If the mother was able  
to maintain her lawful children, and her former  
husband, it was her duty to support them, and  
and even the wife at the time of her second marriage,  
and supported by the second husband.

I suppose children cannot be settled in being  
with a common settlement, and in common, and in common,  
and in common.

The old settlement is always lost by joining a  
new one.

5th 179.  
5th 179.  
supra.

Suppose children have arrived at the age of 21  
years. Then the father is married, and is married,  
and is married.

is himself, some one for him, unless this  
supposes upon the supposition in which he  
sides with his father. If he sides with him, as a  
hered member, or as a baronet under a patent, at  
he sides none: but if he sides with him, as a  
child, he sides with one.

Suppose a minor succeeds to him the father  
gives a new settlement for himself the settlement of the  
child at the time of the succession concludes to be his  
settlement. So if the child is in the army or is with-  
drawn from the authority of his father of the present  
the minor of a new settlement by the parent, some  
more for this child. The then parent to be the minor  
claiming a parent etc.

One Letter  
270  
683  
25th 4  
354  
15th 154

It is not the state of our particular claim to  
be at the expense of maintaining an alliance. But  
it is their duty to provide the immediate relief for  
him & present the account to the Legislature  
of the State, who are finally to be the trustees of  
his support.

















250.









## Guardian & Ward.

There are a great variety of Guardians, in the English law: some of whom, not being known to our law, it will not be necessary to notice. Of this class are guardians in Chivalry, which ceased with the abolition of the military tenures, as H. Ch. 2. is that there now no more exist in England.

Guardianship in Esse devolves upon the next of kin of an infant under 14, to whose estate it is inheritance had come, to which this, nearness of kin must have been given by descent. But as in this country all relations may be made of the State in hereditary descent, there can be but few instances of Guardians in Esse.

A Guardian in Nature, is the father of the child, or mother or next of kin to the heir of an estate.

Guardianship by Nature can never exist here because as all children under 14 are not acknowledged in Guardians in Esse.

Guardianship by Nature are those who are appointed by will under the Act of Administration. But our Jds of Probate are not bound to follow the wishes of the testator.

The Judge of Probate now stands in the same situation with regard to minors, as the Chancellor in England.

Guardian is a person who has the care  
 of a minor when the father is deceased. The word  
 is thus distinguished a usage. It is true that the  
 law sometimes speaks of the situation of a guardian  
 as liable to the state, &c. but the definition given  
 above is conformable to the general acceptance of the  
 term. Guardian in law is more than the guardian of estate.

Guardianship in France, *garde*, declares in the  
 case of a minor that he is no longer liable in his  
 title to the minor's debts in French France. Provides  
 there is no party qualified there is no difference between  
 the whole of the law. A special person is named  
 of his name is ordered to be named, & the court  
 orders to the other. In all these cases there is no prob-  
 lem: it only sets the minor into his position, in  
 custody. Guardianship in France is divided into of the  
 person as well as of the estate. Guardianship in France  
 & the 1807 can never expire his guardianship. If the guardian-  
 ship ceases, the infant guardian is his  
 estate & custody another.

Guardianship in France, can rarely exist in the  
 United States. But it exists in some instances - as in the  
 State of New York, under two statutes, in which state some  
 may observe it then when one of the blood of the first mar-  
 riage.

Guardianship in France is more a matter of  
 the law than in the United States.



in the... of this... the  
... there is no... in...  
... in some.

The father whose... is...  
... after his death the mother, & then  
the next of kin.

In the United States all the children are heirs,  
- therefore, guardianship of the estate extends to all.  
When the child comes to the age of 14, if the father is  
dead the child has an election. If the mother is  
dead or the child does not adopt their mother, the  
child of a father must elect a guardian.

Guardianship of the person is one whole in fact  
extended to the personal estate only & not the real. It  
is also subject to the jurisdiction of the court.

Guardianship of the person and those who in fact  
are allowed to be named in the last will of the  
father to be guardian till the age of 21. It extends  
to the person & to the estate. This is the guardian  
of the person. It has been adopted in some of the  
States not in others.

It has been a question whether a guardian of the  
estate could be elected a guardian for his person.  
It is apprehended, that as the power is not to take effect  
till death, it will then be considered as a  
will. This guardian will supersede all the others,  
even when he is appointed to another.





There the Court did appoint a succession in such  
order as is right.

It is not necessary to state that the same  
 would have to be done in any other case. The benefit of the same  
 be that. I have given no other account of the  
 ending of the paper as it is in the present, for the  
 full remembrance of the author is not a necessary  
 without appointment, by the Ct of Probate. It is of course  
 in fact to ascertain whether the same does give the same  
 in fact to the author without appointment.

If the infant is under the age of 14, the Court in appointing a guardian for him, do not summon the infant to appear - for he has no choice.

The infant would have no father, more  
 than with his possession of genius as well as; though  
 it would be otherwise if he were with his father, as  
 mentioned. But then cannot be removed from the  
 consideration of his child's presence — power of his inf-  
ancy.

Thus the Court appeared a question for me indeed under 14, he has his objection at that age. Was the question in the person appeared in the Court expire at that age? It does not under a new question is stated by the court.

The medicinal virtues of this plant are not fully  
known. It is used in the treatment of  
various diseases, and is a very useful  
remedy.

2. PR.

the same as the first here only the "in" is changed to "on"

2. 11. 77

Some personal - houses with much are required  
for the work of the road.

The chairman, except at the 1st is not bound to  
maintain his name at his own expense. Nor is  
he to be held responsible to maintain his  
conduct.

10/11. 500.



A mother who is reasonable is not obliged to maintain her child in his own property.

It is said that in some countries the custom is that to recover mortgaged lands an owner of the mortgage. A minor has himself authority, & can make a valid conveyance in these countries, & enough to do the collateral act.

The guardian can receive no benefit from the use of the minor's money. It is at the election of <sup>2 Com. 270</sup> <sup>2 Ch. Ca 245</sup> the guardian himself, to take all the benefit which have been received from the use of his money. If the ward has property in land, it is the guardian's duty to sell it, in case of necessity. He may take the money himself & repay to the minor the principal & interest. Suppose the guardian should pay a debt due from the ward, & take three years' time, at a discount, the minor has the benefit of this discount. The presumption always is that the guardian has the ability to put out the money on good security, at interest.

The guardian has no authority to purchase real estate in the ward's name, with his money. If he does it, the ward on arriving at full age may sue to recover whether he will have the land, or a return of the money with interest. If he refuses to sell it at the child's request, he is trustee of the same for the guardian. <sup>1 Com. 450</sup>

Suppose the mortgagee would not be willing to receive  
 the money - The word would stand in coming off full  
 as to take his money with the interest as to receive  
 the benefit of the trade notwithstanding the expense & trouble  
 of the mortgagee.

If the word stands in without making the mortgagee  
 can his lien stand? This property in the hands  
 of the mortgagee is personal & not in the mortgagee's  
estate as to the right of demanding the principal  
 - interest. He can demand it & have the mortgage  
 there - what the claims of creditors. He tells to the land  
 which in the lien as a trustee.

Suppose the mortgagee's property, not money of the  
 word goes into the hands of the mortgagee - in  
 which to sell it & pay the debt of the word & stop  
 the interest - generally. But it is not usual to sell  
private matters like. Every thing of a private nature  
 but cannot be sold to be sold. Thus the mortgage  
 was made of a farm well stocked but was  
 needed to some of the mortgagee required to sell the  
 land & sell first to was required in not to do it.

2d 11  
 1st 10  
 1st 10  
 2d 11  
 2d 11

The mortgagee has often power to foreclose the mortgage  
 of the word & of a debt with often in his power  
 to foreclose without the word being received  
 Court of Chancery in the mortgage is paramount  
 mortgagee.

The mortgagee is not a mortgagee in the mortgagee's power.





268.  
H. H. H. H.  
to the 21.

If one is sued as guardian I wish to show that  
having been one he may stand up, either in state  
court, or in bar. If he ever has been guardian,  
he must state the time & that he fully accounted,  
I was discharged, & never acted as guardian af-  
terwards - & he never was one before that single  
appointment &c.



100







102



Executors & Administrators.

The estate of every deceased person is divided of either by a will of his own, or in a particular manner, made out and by law.

If there is an executor appointed in the will of the deceased the personal property of the testator vests in him. If no executor is appointed, it vests in an administrator appointed by the proper court. In either case the title to the property vests in them not as their own, but as trustees, to pay debts & to execute.

Real Estate vests in the heir as his own; and the law does in title to it devolved upon him as the heir is a fund to him in particular debts, and this title the Real Estate is as much a fund to him as much as the personal, and the personal fund is to be first exhausted. The provisions are all the same as to both. The estate of the deceased vests in the heir as his own; and the law does in title to it devolved upon him as the heir is a fund to him in particular debts, and this title the Real Estate is as much a fund to him as much as the personal, and the personal fund is to be first exhausted. The provisions are all the same as to both.

The estate of the deceased vests in the heir as his own; and the law does in title to it devolved upon him as the heir is a fund to him in particular debts, and this title the Real Estate is as much a fund to him as much as the personal, and the personal fund is to be first exhausted. The provisions are all the same as to both.

It is a common saying that the more you know of the law, the more you know of the folly of the judges.

If there are no creditors, no assets, then there is no law. But there is no law if there are no assets. It is a common saying that the more you know of the law, the more you know of the folly of the judges. It is a common saying that the more you know of the law, the more you know of the folly of the judges. It is a common saying that the more you know of the law, the more you know of the folly of the judges.

When the simple contract debt is in cash, and the amount to which the law is liable, the money is brought into the court, and the debt is paid. This is called marshalling the assets.

The meaning of the Statute there is a preference given to particular creditors, if the whole debt is not sufficient to pay all the debts. But in some cases all are paid in equal proportions, without a claim being made prior to others, where there is no claim.

Volunteers are those who are always prepared to execute.

Some creditors have a lien in mortgage on land. He will receive the whole of his debt, and the remainder in value of the equity of redemption, in the English law is applied to the payment of all debts equally. There is a common law rule that the whole of the assets is available to the payment of all debts.



Those who are desirous to see executed in fact  
to call for the power of the state, and the executive does  
not take this as a condition of any other the trust.  
If on such refusal it should appoint a trustee  
to settle in his hands would be equitable right. In-  
fer the exec<sup>or</sup> without a trustee to the exec<sup>or</sup> does so  
of the trust are the assets equitable in his hands?  
There are - The principle is this whenever in  
any case, I was never in any position to be changed  
to get at the assets, as here are the exec<sup>or</sup> refused  
to see equitable assets, even if the trust was in-  
deed taken without the interference of the exec<sup>or</sup>. Is the  
case would be the same if you had not in fact  
obtained a trustee's receipt of the trust.

There is a construction given in the law book  
to some of the words which is different from the  
construction in many of the others. The law book  
construction is that unless the decision is direct,  
the trust is not to be held in all the cases in which  
it is created. Here such a device is contrived as  
an order first to sell the land or to direct me  
to hold the property and until the condition  
is satisfied. That is the case in which the  
trust is created.

It is not to be held in the case in which  
the trust is created until the condition is  
satisfied.

If there is no will, the money is to be distributed  
among the next of kin of the deceased, or their representatives,  
in accordance with the rules prescribed by the  
law.

Where a testator has made a will, it must be  
taken in construction as a disposition—except in specific  
bequests. Suppose then we have a specific bequest, such  
as "I give my watch to A." If A dies before he is  
in receipt of it— it seems to be questionable whether  
the two other specific bequests shall remain in the  
power or not.

Suppose after payment of all debts, the residue of an es-  
tate is left in the hands of the executor, for which  
no provision is made in the will. Now the executor  
has the legal title to personal property coming to  
his hands— but no beneficial interest. And this  
legal title will be no good for the executor as a beneficial  
property, if he has a right to sell for the  
benefit of the estate. And in a trust, it is certain that  
no one can demand it. But in certain cases,  
a court of equity will compel him to pay over the  
money left to those who if there had been no will  
would have been entitled to the distribution. The prin-  
ciple is, which would I suppose be set in the. If a person  
is seized for a term of years to the executor, then  
it is said that it is not to be presumed that the testator  
intended the executor to have the residue. But if no



... in order to see the ...  
... to conclude that the ... intended  
... the ... to be the ...  
... for his ...

... specific ... has a right to the ...  
... to the value of it, if there is a ...  
... of ... . ...  
... if he ... of then he must account for the  
value of it, with the ...

... said ... a ... that ...  
... makes his ... his ... the ... is  
... . For ... he ... it  
for a man cannot ... himself. But a ...  
... an administrator is not ...  
... same ... apply. This ...  
... in it ... to ...  
... place an ... in ...  
... in his ... to ...  
... that the ... with ... to ...  
... is as the ... of the  
... after ...  
... the ... I would ...  
... that if a ... was ... that ...  
... he ...

Holden  
Xcontia  
Wang comit  
264 6/10  
236 Com 511  
3/30 Wh  
110.  
ab. Car 24  
3/30 ab 12

... these ...  
... before the ...  
... interest ...

But in case of a total failure, the whole thing would have failed. If a loan is given, it is at a future time, which arrives, and is subject to the will of the Legislature, or of the Executive, or the Court of the Union. The Union is not made, until we have a new representation.

But it is obvious, if it was to cost at a time  
and subsequent to the teacher's death, that to be said  
infrequently, then it is certainly good to the  
conscience of the teacher.

Duties of an Excutor, &c



## Legacies.

270

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

### Procuratory & specific legacies.

Legacies are of two kinds - procuratory and specific.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

The law is not a matter of mere words, but of substance.

1840-42.

The subject of the decision was contradictory. The  
 court had then said in *Smith v. Smith* & *Smith v. Smith* that  
 the law was not a law as a law of the land.  
 In the case of *Smith v. Smith*, the court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.

1840-42.

1840-42.

The court was divided 4-3. The court was divided 4-3.  
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 The court was divided 4-3. The court was divided 4-3.  
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The court was divided 4-3. The court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.

### Lapsed & Vested legacies.

The court was divided 4-3. The court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.  
 The court was divided 4-3. The court was divided 4-3.

The court was divided 4-3. The court was divided 4-3.









the first time we saw a copy of the book which the  
author is now publishing and which I will be  
assured will be a great success in the future.  
I have seen it in the hands of many.

But I am sorry that the editor should not marry a  
book which is so much better to be a volume with one of our  
I don't think it would be so successful at present.

I have a man come to my house to his daughter, and so  
often that her marriage is celebrated in his old man-  
sion house at Yorkshire, it was then reasonable that  
the book should be published.

I have a man who is a friend of mine, and who  
will be a great success in the future. He is a man of  
great talents and is so much more than the others.  
I have a great interest in the future success of his children.

I have a great interest in the future success of his children.  
I have a great interest in the future success of his children.  
I have a great interest in the future success of his children.

But I am sorry that the editor should not marry a  
book which is so much better to be a volume with one of our  
I don't think it would be so successful at present.

I have a great interest in the future success of his children.  
I have a great interest in the future success of his children.  
I have a great interest in the future success of his children.

Form of Request.

June 4th 1875  
 1875 10th 18th  
 I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the matter of the petition for the appointment of a guardian for the person of the said child. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration.

June 11th 1875  
 1875 11th 18th  
 I have the honor to acknowledge the receipt of your letter of the 11th inst. in relation to the matter of the petition for the appointment of a guardian for the person of the said child. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration.

June 18th 1875  
 1875 18th 18th  
 I have the honor to acknowledge the receipt of your letter of the 18th inst. in relation to the matter of the petition for the appointment of a guardian for the person of the said child. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration. I have the honor to inform you that the same has been referred to the Board of Guardians for their consideration.

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I mean we are in the will, give another person a power to distribute his estate according to his inclination.

Your 3rd letter was received & I am glad that you are in  
a position to see where the fault is not immediately before me.





The case on the subject of an assumed name  
 is clear. Upon I recede, to the issue of the  
 will, all the former property in the name of the  
 testator being assumed that is intended that all the  
 interests which should be after the will be considered  
 as being in the hands of the testator in the will. The  
 intention is to be considered in that case in which  
 all the interests of the testator.

In Ademption of a legacy is where some  
 circumstance has intervened after making the will  
 which shall operate to take away the legacy from  
 the legatee. I recede a bond to the testator  
 made, the obligor of the bond paid it up. This has  
 been said to be an ademption of the legacy. I recede  
 the obligor being in failing circumstances, the testator  
 enforces payment. This has been said to be an ademption.  
 It may appear to be the intention of the testator to take  
 away the legacy, or the thing described must have been  
 sold to constitute an ademption. According to the  
 law as it is mentioned it has been held that the  
 collection of the bond was an ademption, & that the  
 legatee shall have the amount.

But when the obligor of the bond was a man  
 alive & the obligor is the testator, collected it is  
 held that the intention was apparent to take the  
 legacy from the legatee.











It is a principle in equity that the creditor has no  
power of enforcement, even over the debtor's estate, but  
he must be a creditor in equity, not a creditor in law.  
1st. 121.

Suppose a creditor has a debt due to him in the  
law, but the debtor has a right of exoneration in  
equity that he is not a creditor, not being a creditor  
in equity. He would be paid. But this is not the  
law, because of the 1st. 121. It is a rule that  
his representation will take it.

2nd. The creditor must, when a debt is due to  
him, be a creditor in equity so that it could not be  
recovered of the debtor. It may, from the evidence  
of the will be recovered of the creditor, as if the will  
shows all the testator's debts to be paid. This is con-  
sidered to be a case of the Statute, which has a  
provision, but does not extinguish the Statute. The  
warrant that the Statute will be the second of a  
recovered judgment. It is a provision to the sub-  
stantive law, and is a rule of equity, not of law.  
1st. 121.

3rd. When there is no evidence in the will that  
the debt is a debt due to the creditor, it will be  
unavailable to the creditor's estate. The creditor  
must have been a creditor in equity. The Statute  
of Exoneration has been a rule of equity, not of law.  
1st. 121. It is a rule that the Statute will be

To whom, legacies shall be paid? &c.





When interest shall be allowed on legacies.

It is a rule of law, that interest shall not be allowed on legacies, until they are due.

And it is a rule of equity, that interest shall not be allowed on legacies, until they are due, unless the testator has expressed a contrary intention.

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not allow it, as the person has not been examined  
as to the soundness of his mind, in the  
possession of the estate.

It is a matter of course when a person is  
suffering from insanity, the estate will be settled  
to effect, and then a commission is made out, by which  
the estate is placed in the hands of the  
legally appointed person. And if the estate is to be  
used for the support of the person, the intention  
when the commission was given is not there.

It is also a matter of course that a person who  
is not of sound mind is not in possession of the  
estate of the estate. That there is a secret of law  
here to be considered. This is not true. The estate is  
settled in the person's name, and he is not to be  
considered a party.

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settled in the person's name, and he is not to be  
considered a party.

How are the estates to be settled?

The first thing to be done is to see that the  
estate is settled in the hands of the person  
who is not of sound mind. This is not true. The estate is  
settled in the person's name, and he is not to be  
considered a party.





Remainder after a life estate, in hers, property.

As to the estate of the deceased.

Which is a provision made by the testator in his will, to belong to the estate of the deceased. And since it must be paid to him on his recovery. This is not to be included in the inventory. Can the estate pay such a bill to the property or to the creditors of the estate? No - it will be paid out of the estate. But how can they set it off? There may be one the estate or executor in his own name. The true ex<sup>r</sup> is not liable, as the property is not in the estate.

It has been a question whether a slave in a slave state be the subject of a liberative cause. There is no difficulty in it now but a technical one. The slave cannot sue on the bond so in his own name - & nobody can sue in the name of the slave, but his representative after his death. If the ex<sup>r</sup> can sue. There is no difficulty in recovering on the bond. But if the ex<sup>r</sup> refuses I apprehend that the difficulty may be surmounted by enabling the slave to sue the name of the ex<sup>r</sup> his executor to him a creditor in remission, & I should suppose it would exercise his power. Lands devised to pay debts.

Where lands were devised to pay debts & the personal fund was found to be sufficient to pay them but not the taxes. The question arose, whether the same could come upon the land in payment of the estate.



The second consideration of a security in the person  
 is, next, is that of the personal fund is sufficient for the purposes  
 and the first is said. If the bond could have been  
 sold in the first instance for the payment of debts,  
 as in some cases there could be no doubt that  
 the bond could stand in the place of the creditors  
 and be treated the personal fund. The English law  
 allows the creditor to come upon the bond in the  
 principle that under an indenture was, otherwise.  
 the plain, & circumstances of the security.

Voluntary bond.

Suppose a voluntary bond is made by the debtor to  
 one of his creditors, it is voidable, as a matter of  
 course, to simple contract debts, for this is not  
 a debt. But after death of the debtor, this takes priority to  
 all other voluntary bonds. It is the mark of consideration  
 between creditor & debtor. So allow it to be avoided  
 and a debt would be the effect to a fraudulent  
 conveyance. This claim on the part of the creditor in  
 voluntary bonds, except bondholders. — Under our Act.

I have noticed that personal property, immovable  
 property, be subject to a mortgage for life with remainder  
 over to another. It is also a term for years, in per-  
 sonal property & immovable property at law. It  
 was formerly common to give a life estate in a  
 term for years for years & remainder to the wife.  
 As an example, the donor of the life estate would be  
 compelled to make and see it done in due conformity to law.

Right of Executor to the Residuum.

Suppose there is no contrary estate specified in the will. The usual construction is that the executor is the owner of the residue. I have never seen this in a will. I think it doubtful. If a legacy of money is left to the executor in the will, it is inferred as intention in the testator that the executor should take no more and should be trustee of the residuum, as in

1 Vern. 473.

10. 2d. 81.

Testate Property.

2. Atk. 43. 40.

2. Atk. 47.

10. 68.

10. 222.

2. Atk. 226.

10. 300.

10. 222.

10. 230.

2. Vern. 465.

10. 473.

2. Vern. 41.

1. Wils. 313.

1. Wils. 221.

1. Wils. 226.

1. Wils. 240.

But oral testimony may be introduced in the executor to rebut this equity and restore the legal construction of the deed or will. But oral testimony may never be introduced to alter the legal construction of an instrument.

The same of the 2d. provision is made in Stat.

Let the executor be paid for his trouble. This is

different from the 1st. will. In those States where

the executor is entitled to the residuum. I should think

not. He then stands in the place of an administrator

who is paid for his trouble. In some, there

you find the executor never thinks of claiming the residuum.

and.

and.

(10. 222)



## Statute of Distribution.

291.

The Statute considered the last acts of an executor. I shall now consider the last duty of an administrator, viz. the distribution of the residue after payment of the debts of the testator. But the subject of the distribution of real property has been considered already, & I shall confine myself now to the distribution of personal property.

The provisions of the Statute in this respect will be our principal source. This Stat. provides that the personal property of the intestate shall be distributed one third to the wife & the other two thirds to the issue. If there are children, they will take to the exclusion of all other relations. If there are no issue, one half of the personal estate goes to the wife & the other half to the next of kin & their representatives; & those next of kin will, p. 295. exclude all who are more remote by obtaining where there are no representatives. There is no representation allowed beyond brothers & sisters deceased. Brothers are not preferred in this Stat. to parents, nor children of the whole, to those of the half blood. I have seen some persons who think that a mother will with one son in the age of the intestate.

The descending line, however remote, will exclude the ascending & collateral line.

182.  
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1822, 100.

In the second time the children, it has been  
all taken take equal share. If some of them  
are living - other dead business children - then  
children stand in the place of their parents & take  
what he would have taken. If all the children  
are dead, business of the ... & business of ... & business of ...  
3. & business of ... & business of ... & business of ...  
take for capital an equal share with the others.  
If some of the parents are living & other dead  
their children take for capital. What if all the  
parents are dead the children take for capital.  
4. If some of the parents are dead & other living  
the children of those who are dead, take  
for capital as if living. The rule then is that  
where all the children are in equal share they  
take for capital. If not, for capital as the  
children are represented as in the first instance,  
but in the collateral line, it is as to the third  
instance, is more beyond brothers & sisters & such.  
The rule is as follows. The widow takes one half  
the other half goes to the next of kin & their legal  
representatives. How are the next of kin to be  
ascertained. In the second time there is no  
difficulty, when some of them are represented up  
of each one is one as one in the next of kin than the  
other.

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the other half goes to the next of kin & their legal  
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difficulty, when some of them are represented up  
of each one is one as one in the next of kin than the  
other.



In the collateral line. The computation is by 1 from 304  
 In civil law, where computation was established 1. 1. 38. 41.  
 when an estate was made. Begin with the in 2. 1. 3. 24.  
 estate as proprietor & account up to the common 2. 1. 3. 25.  
 ancestor of the intestate & deceased; it values to 2. 1. 3. 26.  
 the estate and him self, & the number of acres 2. 1. 3. 27.  
 value thereof will give the degree of his lineages. 2. 1. 3. 28.  
 By the Statute of Geo. The mother is regarded to 4. 1. 1. 1. 1.  
 as equal to brother & sister. 4. 1. 1. 1. 2.

Until you arrive to the fourth degree, representa-  
 tion is retained among collateral. In representa-  
 tion in the collateral line take per stirpes in capita,  
 according to the degree next to person in the con-  
 junction line. When all the claimants are in equal de-  
 gree they take per capita. It makes no difference  
 whether they are of the whole or of the half blood.

There is no question but that a brother & a sister  
 are in the same degree, & that the decision which  
 has given the preference to a brother is in favor of the  
 nearest of the line in this subject. Lord Hardwicke  
 settled the rule from our distance to the nearest  
 line.

Among collaterals, there is no representation  
 among brother & sister children. Those who are near-  
 er of kindred take of a more remote stock in preference  
 to the grandchildren of brother & sister.

It has been said that there was an inconsistency in  
 a decision which gave to the widow & children  
 the mother & sister being all dead, and preference  
 to the mother & sister who are in the same degree.  
 But we must recollect that in that case the mother  
 was still living who by the Stat. of 1800 was depre-  
 ciated to the rank of a brother or sister. Therefore she  
 being considered as one of the said stock still sur-  
 viving, the precedence of the other next associates  
 to the established rule takes place.

2. 9th 118 The beneficial interest in the distributable share  
 10th 220 was in testator on the death of the testator, in the  
 2. 11th 40 person who is entitled to it, & on his death before  
 the distribution will go to his representatives — even  
 in a child in vestro in ure.

There has been a great dispute whether a legacy  
 left to the wife & uncollected by the husband in  
 1. 10th 10. 118 his lifetime before he dies, & her share in action?  
 I apprehend it belongs to the representatives of her hus-  
 band as does other property acquired in her living  
 estate.

Suppose the mother & son & daughter are living — to  
 2. 11th 44 whom shall the estate be distributed. The mother takes  
 1. 11th 48 the whole — she is only postponed by the Statute of 1800  
 to receive her entire preference to brother & sister —  
 — not to place her on an equality with other re-  
 latives of the same degree.



Suppose a wife dies leaving shores in action & uncollected by the husband. The Stat<sup>ts</sup> seems to have taken no notice of a case of this sort. On the principles of the Comm. Law, it goes to her next of kin.

The 29<sup>th</sup> Stat. has given this estate to her husband to pay her debts as a fund & if there is a surplus the Stat. gives that to the husband, without liability to account. In those States where the Stat. 29<sup>th</sup> Stat. has not been adopted, it now becomes a very important question, to whom this residue shall be distributed?

Apprehend however, that in those States, the husband would be no more entitled to it, than any other person, unless he also stands in the relation of "next of kin."

See this whole subject considered with reference to the Statutes of the several States, under the title of Real property.

### Advancement.

It must be plain that some of those who would be entitled to a distributary share of the intestate's estate, have received advancement in the lifetime of the decedent. In such cases, according to the English rule, the property thus received is to be brought into hotchpot & divided among them all. According to our rule, the money so received is never brought into hotchpot, but the person who has received it will have a share of the intestate's estate proportionally less. What it amounts to in our instances?

It is not a gift at all, and I mean to put a formal  
and provision made by the father for the child.  
The provision was received from my mother or from  
the mother. The person receiving it will still be so-  
lided to our equal contribution share with the rest.

It is a rule in the Eng. Law that money expended  
 in the education of a child is no deduction. In  
 fact, the rule is different, & the principle is  
 the same with a liberal education of female slaves.  
 The benefit of the parent is always considered as  
 a provision for the child. The charge is considered as an  
 expense at the parent's discretion.



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Diversity between the Eng<sup>l</sup> & our law regarding settlement of estates.  
There is a difference in several respects between our  
law & the English law on the subject of the settlement  
of estates.

1. The first difference is that here the real property  
is always liable for all the debts of the deceased.

2. In England real property is liable in 3 classes of debts, such  
as the debt in return of title rent. & any rent payable for the same.

3. The assets are all equitable assets here, & are  
paid pro rata with preference only to the debt  
and parties in the last class of the deceased. With  
respect to them there is a question in England regard-  
ing the construction of our Stat. The words of the  
Stat. are personal including "debts of the deceased" con-  
tracted at any time, without any particular reference  
to the last class of debts, to which alone, the Eng. Stat.  
refers. The construction of our Stat. Probate law  
indeed seems to allow priority only to debts contracted  
in the last class of debts. But it is a question whether  
our Stat. "to allow preference to debts of the deceased"

4. The our law the ex<sup>r</sup> is always bound to give  
credit to the creditors of the deceased in the last class.  
The Eng. law, he is never bound to give credit  
to the creditors of the deceased in the last class.

5. In the estate of a person deceased in England  
so represented, which debts are all debts. For the  
law is applied to the law of the country. The law  
here is a sale of the property of the deceased in the last class.

By the way, I suppose a debt which the commission-  
er has allowed is well paid, another measure  
is to be struck, it is if some estate was in a cer-  
tain & some left out of the inventory. The rule is the  
same.

The law does not take away any lien, whether  
an executor has received or has been obliged to pay,  
on the estate of his debtor — but the law excludes  
no lien.

I think the word is not to be taken as  
if the law were to say it is in the nature of a lien.  
What is the ex<sup>t</sup> to do, in such a case? The  
law will not in ex<sup>t</sup> I call in all the creditors  
who are concerned to execute the will at the ex-  
ecutor's expense who take the oath with him, by the will.

Should one case then come in such a situation  
before the court is not to send a decree as to  
make the estate discharge — what is to be done

by the commissioners? If they reject the bond, it  
is done altogether, & if they admit it, the estate  
will be involved. The true way is for them to accept  
it & state that it is a voluntary bond, & then  
the Ct of Probate will order payment to the other  
creditors first.



Executors & Admin, <sup>ms</sup> first duties considered.

745

Suppose a will is made & an exor<sup>r</sup> appointed who refuses to accept, as if no exor<sup>r</sup> at all is appointed, the Ct of probate will appoint one and administer. Even testamentary executor, & the rule is to be the same in intestate as it is in the will & an exor<sup>r</sup> in intestate cases.

As a decision to take can do nothing without  
having first taken the letter of administration. & p. 107.  
But many things may be done by an exor.  
He may collect debts, manage real estate  
is able to do this &c, and he cannot plead  
that he has not obtained probate of the will, when  
he is asked an exor.

Will be made very sensibly - but the want  
ing of little of administration in comparison  
of how many receive. In case of the death of  
a person intestate. The clergy took the estate  
as trustees to employ the property in pious uses.  
They were sensible not to had secured suc-  
cess of their scheme. I applied the property to their  
own enrichment. It is a very common case  
was considered since the death of a man to see all  
their wealth pass to the state. The Stat. 31. Ed. 2. 1381. 1382. 1383. 1384. 1385. 1386. 1387. 1388. 1389. 1390. 1391. 1392. 1393. 1394. 1395. 1396. 1397. 1398. 1399. 1400. 1401. 1402. 1403. 1404. 1405. 1406. 1407. 1408. 1409. 1410. 1411. 1412. 1413. 1414. 1415. 1416. 1417. 1418. 1419. 1420. 1421. 1422. 1423. 1424. 1425. 1426. 1427. 1428. 1429. 1430. 1431. 1432. 1433. 1434. 1435. 1436. 1437. 1438. 1439. 1440. 1441. 1442. 1443. 1444. 1445. 1446. 1447. 1448. 1449. 1450. 1451. 1452. 1453. 1454. 1455. 1456. 1457. 1458. 1459. 1460. 1461. 1462. 1463. 1464. 1465. 1466. 1467. 1468. 1469. 1470. 1471. 1472. 1473. 1474. 1475. 1476. 1477. 1478. 1479. 1480. 1481. 1482. 1483. 1484. 1485. 1486. 1487. 1488. 1489. 1490. 1491. 1492. 1493. 1494. 1495. 1496. 1497. 1498. 1499. 1500. 1501. 1502. 1503. 1504. 1505. 1506. 1507. 1508. 1509. 1510. 1511. 1512. 1513. 1514. 1515. 1516. 1517. 1518. 1519. 1520. 1521. 1522. 1523. 1524. 1525. 1526. 1527. 1528. 1529. 1530. 1531. 1532. 1533. 1534. 1535. 1536. 1537. 1538. 1539. 1540. 1541. 1542. 1543. 1544. 1545. 1546. 1547. 1548. 1549. 1550. 1551. 1552. 1553. 1554. 1555. 1556. 1557. 1558. 1559. 1560. 1561. 1562. 1563. 1564. 1565. 1566. 1567. 1568. 1569. 1570. 1571. 1572. 1573. 1574. 1575. 1576. 1577. 1578. 1579. 1580. 1581. 1582. 1583. 1584. 1585. 1586. 1587. 1588. 1589. 1590. 1591. 1592. 1593. 1594. 1595. 1596. 1597. 1598. 1599. 1600. 1601. 1602. 1603. 1604. 1605. 1606. 1607. 1608. 1609. 1610. 1611. 1612. 1613. 1614. 1615. 1616. 1617. 1618. 1619. 1620. 1621. 1622. 1623. 1624. 1625. 1626. 1627. 1628. 1629. 1630. 1631. 1632. 1633. 1634. 1635. 1636. 1637. 1638. 1639. 1640. 1641. 1642. 1643. 1644. 1645. 1646. 1647. 1648. 1649. 1650. 1651. 1652. 1653. 1654. 1655. 1656. 1657. 1658. 1659. 1660. 1661. 1662. 1663. 1664. 1665. 1666. 1667. 1668. 1669. 1670. 1671. 1672. 1673. 1674. 1675. 1676. 1677. 1678. 1679. 1680. 1681. 1682. 1683. 1684. 1685. 1686. 1687. 1688. 1689. 1690. 1691. 1692. 1693. 1694. 1695. 1696. 1697. 1698. 1699. 1700. 1701. 1702. 1703. 1704. 1705. 1706. 1707. 1708. 1709. 1710. 1711. 1712. 1713. 1714. 1715. 1716. 1717. 1718. 1719. 1720. 1721. 1722. 1723. 1724. 1725. 1726. 1727. 1728. 1729. 1730. 1731. 1732. 1733. 1734. 1735. 1736. 1737. 1738. 1739. 1740. 1741. 1742. 1743. 1744. 1745. 1746. 1747. 1748. 1749. 1750. 1751. 1752. 1753. 1754. 1755. 1756. 1757. 1758. 1759. 1760. 1761. 1762. 1763. 1764. 1765. 1766. 1767. 1768. 1769. 1770. 1771. 1772. 1773. 1774. 1775. 1776. 1777. 1778. 1779. 1780. 1781. 1782. 1783. 1784. 1785. 1786. 1787. 1788. 1789. 1790. 1791. 1792. 1793. 1794. 1795. 1796. 1797. 1798. 1799. 1800. 1801. 1802. 1803. 1804. 1805. 1806. 1807. 1808. 1809. 1810. 1811. 1812. 1813. 1814. 1815. 1816. 1817. 1818. 1819. 1820. 1821. 1822. 1823. 1824. 1825. 1826. 1827. 1828. 1829. 1830. 1831. 1832. 1833. 1834. 1835. 1836. 1837. 1838. 1839. 1840. 1841. 1842. 1843. 1844. 1845. 1846. 1847. 1848. 1849. 1850. 1851. 1852. 1853. 1854. 1855. 1856. 1857. 1858. 1859. 1860. 1861. 1862. 1863. 1864. 1865. 1866. 1867. 1868. 1869. 1870. 1871. 1872. 1873. 1874. 1875. 1876. 1877. 1878. 1879. 1880. 1881. 1882. 1883. 1884. 1885. 1886. 1887. 1888. 1889. 1890. 1891. 1892. 1893. 1894. 1895. 1896. 1897. 1898. 1899. 1900. 1901. 1902. 1903. 1904. 1905. 1906. 1907. 1908. 1909. 1910. 1911. 1912. 1913. 1914. 1915. 1916. 1917. 1918. 1919. 1920. 1921. 1922. 1923. 1924. 1925. 1926. 1927. 1928. 1929. 1930. 1931. 1932. 1933. 1934. 1935. 1936. 1937. 1938. 1939. 1940. 1941. 1942. 1943. 1944. 1945. 1946. 1947. 1948. 1949. 1950. 1951. 1952. 1953. 1954. 1955. 1956. 1957. 1958. 1959. 1960. 1961. 1962. 1963. 1964. 1965. 1966. 1967. 1968. 1969. 1970. 1971. 1972. 1973. 1974. 1975. 1976. 1977. 1978. 1979. 1980. 1981. 1982. 1983. 1984. 1985. 1986. 1987. 1988. 1989. 1990. 1991. 1992. 1993. 1994. 1995. 1996. 1997. 1998. 1999. 2000. 2001. 2002. 2003. 2004. 2005. 2006. 2007. 2008. 2009. 2010. 2011. 2012. 2013. 2014. 2015. 2016. 2017. 2018. 2019. 2020. 2021. 2022. 2023. 2024. 2025. 2026. 2027. 2028. 2029. 2030. 2031. 2032. 2033. 2034. 2035. 2036. 2037. 2038. 2039. 2040. 2041.

Ms. 582  
2. Feb. 1820  
2. Feb. 504

The court of probate always exercises a discretion  
under the Statute in giving either to the widow,  
or next of kin, or other person or persons, to whom  
money is made payable. It is not necessary that  
administration to the whole estate should be given  
to one person. Several persons may be entitled.

The court may give the money to the widow, when  
there is one in that line capable of administering.  
There is no difference between males & females as  
between whole & half blood.

Ms.  
2. Feb. 21.

When a female who would be entitled, survives, she  
is excluded.

Ms. 29  
Feb. 20

A minor cannot act as adm<sup>r</sup> till he arrives  
at the age of 21. In such cases, an adm<sup>r</sup> ad interim  
ministrator is appointed. This latter person need not  
be selected from the next of kin.

The adm<sup>r</sup> at present cannot act until 21.  
Because he cannot give a bond, for faithful and  
cheapness. But he may act as exec<sup>r</sup> because an  
exec<sup>r</sup> need not give bonds. If this is the true  
reason, in those cases where the Stat. requires  
a bond to be given by the exec<sup>r</sup> it is void that  
an infant cannot act as exec<sup>r</sup>. But I apprehend  
that wherever an infant has power to act  
in a particular capacity, he has power to give the  
bond which is incident to the principal  
act.



311  
If none of the creditors of the intestate will accept  
of administration on the estate, the Ct should ap-  
point a creditor of the deceased - & on failure of  
these, any discreet person.

If the ~~administrator~~<sup>exec<sup>r</sup></sup> dies, before completing the Prob. 907  
Administra<sup>n</sup> his ex<sup>r</sup>, if he has one, will be ex<sup>r</sup>  
de bonis non, of the first estate; - if there is no  
ex<sup>r</sup> an administrator de bonis non is appoint-  
ed.

### Duty of Executors & Administrators.

The admin<sup>r</sup> must always give bond, for faith-  
ful performance. An ex<sup>r</sup> does not, unless in  
special circumstances. Secus, under our Statute.

The admin<sup>r</sup> must make an inventory of all  
the estate of the deceased & exhibit it at a certain  
time to the Ct of probate & then administer the  
estate according to law. He must make a true  
account of all his administration charges.

All the personal estate which comes into his hands  
is apoth. And he is liable to the extent of his apoth.  
i.e. to the extent of the net proceeds of the property  
& inventoried. The object of the inventory is to make  
it appear to the Ct, what the property inventoried  
was, which comes to the hands of the Admin<sup>r</sup>.

If by any negligence, miscollected so as to be ex<sup>r</sup>  
as a true & sufficient apoth. he is still  
liable in that capacity, until to the extent of them.

But he may be answerable de bonis propriis for a disobedient.

Can an action be maintained on the bond of the  
 admin<sup>r</sup> by a creditor for his debt? No. Bond is  
 given to him for value ~~sent~~ account given - by the  
 182. 360 for debt, he will then be liable. If there is no debt  
 & the deficiency is owing to a new solvent, then sure  
 him for a solvent; if he is able to respond, there  
 is no need of reaching to the bond. But suppose he  
 is insolvent; then sure on the bond - reason of the  
 bond is given. I can't suppose that bond is void, it is a return of ~~money~~ <sup>value</sup>

There is a power vested in the Court of Probate, to  
 3 Feb. 22 repeal letters of administration, for proper cause, as  
 if it appears afterwards that there was a will &  
 an ex<sup>r</sup> appointed. But they cannot repeal, without  
 new cause. Should they attempt it, Prohibition must  
 20 Feb. 19 be obtained from the superior Court. Since is al-  
 ways a sufficient cause for a repeal - but must be  
 temporary, unless it induces an degree of irrespon-  
 sibility, will not warrant them. Some

Right of exec<sup>r</sup> to sue, & his liability to be sued.

Is an "Ex<sup>r</sup>" who represents the testator's income  
 2. 220 439 entitled to a ~~share~~ recovery in such case, where the  
 745  
 1 Feb. 30  
 2 Feb. 372  
 2 Feb. 544  
 4 Feb. 409  
 2 Feb. 214  
 2 Feb. 277  
 2 Feb. 277  
 2 Feb. 277  
 2 Feb. 277





The ex<sup>r</sup> is not then answerable in a more general  
 sense, as in the case of the testator, in the right of a third  
 person; nor is he answerable in respect to the property  
 of another, by which the testator's property was not ben-  
 efitted. Originally the ex<sup>r</sup> was not liable at all, not  
 even on the contract of the testator - the remedy was  
 not yet been extended to all the cases of injustice to  
 which are amenable, it is said. It will be seen that  
 there is not an entire reciprocity in respect to the  
 ex<sup>r</sup> as to one & another & as to the testator. If the testator  
 has been deceased, the ex<sup>r</sup> has a right of  
 action - and if the testator has deceased another man  
 before the ex<sup>r</sup> can act in such

Hamilton  
 Smith  
 Corp.

as the testator does in his lifetime the ex<sup>r</sup>  
 and another, what remedy has the latter against the  
 ex<sup>r</sup>? There was some time since the ex<sup>r</sup> & the  
 was not plaintiff of the former: He would then be obliged  
 to plead that the testator was not guilty. But it is a  
 maxim of the law that the guilt of innocence or  
 man cannot be tried after his death. This could not be  
 well ascertained in the case in dispute. The ex<sup>r</sup> then con-  
 tains an action on the case against the ex<sup>r</sup> - stating  
 all the circumstances of the case & adding with an  
 affidavit

The right of the ex<sup>r</sup> was extended to contracts  
 respecting real property. If there are broken, it has  
 a claim for damages which belong to the person, &c.



There is no objection to the general rule that the eye  
is visible as the contract of the deceased. The rule of  
exclusion is this. Where the contract is made by the  
deceased, moved from the person's possession with  
the intention, the eye is visible as a contract. But  
where the consideration arises from the performance  
of the act itself, the contract is not visible. As the fact-  
ore of a thing to collect debt, who receives his pay  
from the same person as before.

will accept in order to save the cost of the  
 the maker no provision for a case of this sort,  
 and there are many cases in which it will be very  
 reasonable that the executor should be permitted to settle.  
 It is true that the settled in the Act has been  
 considered.

The executors & administrators are trustees as those who  
 are entitled to the management of the deceased's estate, since  
 the institution of the Act, under the will.

The real estate is immediately to the heir.  
 The executor or administrator is not to be concerned with the  
 lands.

The real estate in the Act is made over for the pay-  
 ment of debts by specialty. Such creditors have been  
 excluded from some upon other grounds. Of these  
 first to exclude the creditors of the deceased. It will be  
 in the simple contract creditors to the real estate  
 to the amount for which the specialty creditors might  
 have taken it.

The will may be real or personal. Land is  
 a gift in the hands of the heir.

Gifts may be also local or equitable. Local  
 gifts are such as given to the heir to be in the course  
 of the administration. Equitable gifts are those to  
 obtain which the intervention of a Court of Equity is  
 necessary: as in case of a will made by a testator.



Answer. If one dies leaving under a will, but I should not mentioned in the devise, which occurred to the heir, then bonds are liable for the debt in preference to those which are secured answers: *Smith*

If bonds are charged with payment of debt, & personal property is left, this is first to be exhausted.

It is not uncommon for a decedent to charge his heir with the payment of debt. And if the heir refuses, Ch'cy will order a sale of his bonds. Suppose the creditors discover personal estate, & do not choose to resort to the heir, those who would have been entitled to the remainder of the personal estate, if the debt had been paid in the heir, lose a dividend upon him for that amount. The executor recovers it of him. The creditor might have sued either the estate or the creditor: he might indeed have sued both, but could have had but one satisfaction. The other would be relieved from execution by curia quondam. See 303

The creditors are bound by the testator's 1. 14. 15. 2. 1. 2. 3. 1. 2. 4. 1. 2. 5. 1. 2. 6. 1. 2. 7. 1. 2. 8. 1. 2. 9. 1. 2. 10. 1. 2. 11. 1. 2. 12. 1. 2. 13. 1. 2. 14. 1. 2. 15. 1. 2. 16. 1. 2. 17. 1. 2. 18. 1. 2. 19. 1. 2. 20. 1. 2. 21. 1. 2. 22. 1. 2. 23. 1. 2. 24. 1. 2. 25. 1. 2. 26. 1. 2. 27. 1. 2. 28. 1. 2. 29. 1. 2. 30. 1. 2. 31. 1. 2. 32. 1. 2. 33. 1. 2. 34. 1. 2. 35. 1. 2. 36. 1. 2. 37. 1. 2. 38. 1. 2. 39. 1. 2. 40. 1. 2. 41. 1. 2. 42. 1. 2. 43. 1. 2. 44. 1. 2. 45. 1. 2. 46. 1. 2. 47. 1. 2. 48. 1. 2. 49. 1. 2. 50. 1. 2. 51. 1. 2. 52. 1. 2. 53. 1. 2. 54. 1. 2. 55. 1. 2. 56. 1. 2. 57. 1. 2. 58. 1. 2. 59. 1. 2. 60. 1. 2. 61. 1. 2. 62. 1. 2. 63. 1. 2. 64. 1. 2. 65. 1. 2. 66. 1. 2. 67. 1. 2. 68. 1. 2. 69. 1. 2. 70. 1. 2. 71. 1. 2. 72. 1. 2. 73. 1. 2. 74. 1. 2. 75. 1. 2. 76. 1. 2. 77. 1. 2. 78. 1. 2. 79. 1. 2. 80. 1. 2. 81. 1. 2. 82. 1. 2. 83. 1. 2. 84. 1. 2. 85. 1. 2. 86. 1. 2. 87. 1. 2. 88. 1. 2. 89. 1. 2. 90. 1. 2. 91. 1. 2. 92. 1. 2. 93. 1. 2. 94. 1. 2. 95. 1. 2. 96. 1. 2. 97. 1. 2. 98. 1. 2. 99. 1. 2. 100. 1. 2. 101. 1. 2. 102. 1. 2. 103. 1. 2. 104. 1. 2. 105. 1. 2. 106. 1. 2. 107. 1. 2. 108. 1. 2. 109. 1. 2. 110. 1. 2. 111. 1. 2. 112. 1. 2. 113. 1. 2. 114. 1. 2. 115. 1. 2. 116. 1. 2. 117. 1. 2. 118. 1. 2. 119. 1. 2. 120. 1. 2. 121. 1. 2. 122. 1. 2. 123. 1. 2. 124. 1. 2. 125. 1. 2. 126. 1. 2. 127. 1. 2. 128. 1. 2. 129. 1. 2. 130. 1. 2. 131. 1. 2. 132. 1. 2. 133. 1. 2. 134. 1. 2. 135. 1. 2. 136. 1. 2. 137. 1. 2. 138. 1. 2. 139. 1. 2. 140. 1. 2. 141. 1. 2. 142. 1. 2. 143. 1. 2. 144. 1. 2. 145. 1. 2. 146. 1. 2. 147. 1. 2. 148. 1. 2. 149. 1. 2. 150. 1. 2. 151. 1. 2. 152. 1. 2. 153. 1. 2. 154. 1. 2. 155. 1. 2. 156. 1. 2. 157. 1. 2. 158. 1. 2. 159. 1. 2. 160. 1. 2. 161. 1. 2. 162. 1. 2. 163. 1. 2. 164. 1. 2. 165. 1. 2. 166. 1. 2. 167. 1. 2. 168. 1. 2. 169. 1. 2. 170. 1. 2. 171. 1. 2. 172. 1. 2. 173. 1. 2. 174. 1. 2. 175. 1. 2. 176. 1. 2. 177. 1. 2. 178. 1. 2. 179. 1. 2. 180. 1. 2. 181. 1. 2. 182. 1. 2. 183. 1. 2. 184. 1. 2. 185. 1. 2. 186. 1. 2. 187. 1. 2. 188. 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When the son did not the land, he was not interested personally: neither was the house, since the house was not needed by one but the land which made the son still personally, & also included the land in the hands of a service. Then the son's son has not been offered in this country, these restrictions must still prevail.

*T. P. 34 x 30*  
*776.* Land owned to pay debts cannot be taken in  
*3. 4th. 1790* the condition at law — but is equitable as to.

Who may be an Executor?

*2 L. 121* Almost all persons may be executors. The spiritual court obtained that certain persons from their character, could not be executors. But now it is  
*2 Dec. 1792* stated that who ever is in the confidence of the testator, even an infant in ventre sa mere may be  
*2 Dec. 1795* an executor. An executor must be a minor estate is in such case appointed.

But a woman can not be an executor; she is bound by her oath provided he does not see that which in another would remain to a servant as he is much more a man not paid. Here his wife will protect him. He is not bound by any act which is to his prejudice.

*1791 76.*  
*1791 78.* If he should agree to a legacy when he had not before, it is not a gift, this agent would not be bound to receive.  
*2 L. 172.*  
*1791 79.*  
*1791 80.*  
*1791 81.*  
*1791 82.*  
*1791 83.*  
*1791 84.*





There is but one case in which a man includes a man, in his own rights as a citizen. That was when the person was been excommunicated by the spiritual CH.

An alien friend may be an exc<sup>o</sup> or a den<sup>o</sup> as well as any other person. They may hold personal property, & they act, as exc<sup>o</sup> in the right of another.

Can an alien enemy maintain actions, as executor? The true subject thus has been a dispute. That he can hold office is not denied. But whether he can do any proper business from the country has been doubted. Held an alien citizen of one intelligent nation to a citizen of another. This is not case on the restoration of war. The right of recovery is suspended. & therefore interest stops. I found an alien enemy might recover & pay ann. to creditors in the same Kingdom.

1800. 25. Debt & limitation cannot be executor. That it is no reason, that the person appointed is a bad man. But they will compell such persons to give security for faithful performance; so, if they are poor & insolvent.



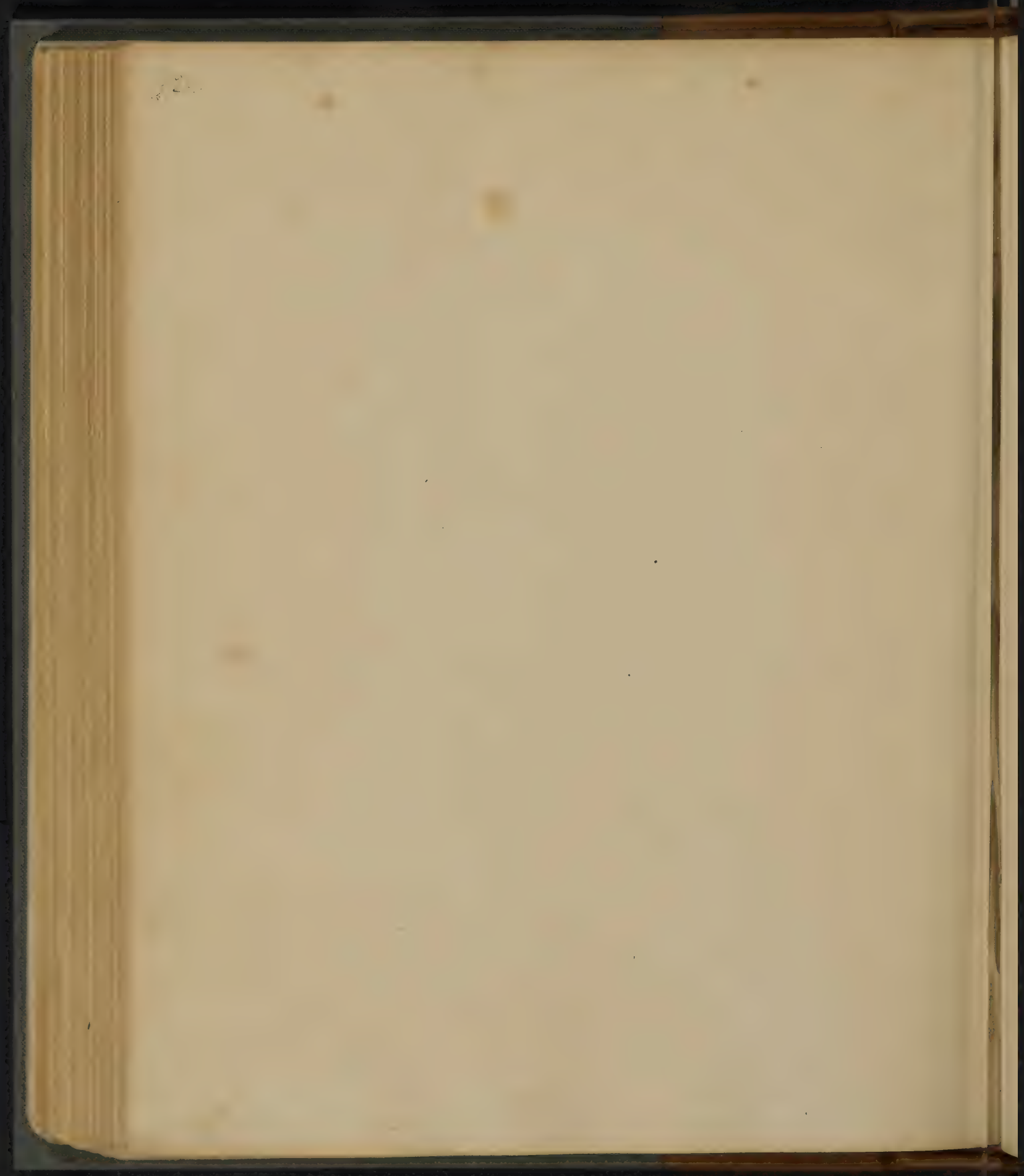
{ see page 391 for continuation }

391

112



228.



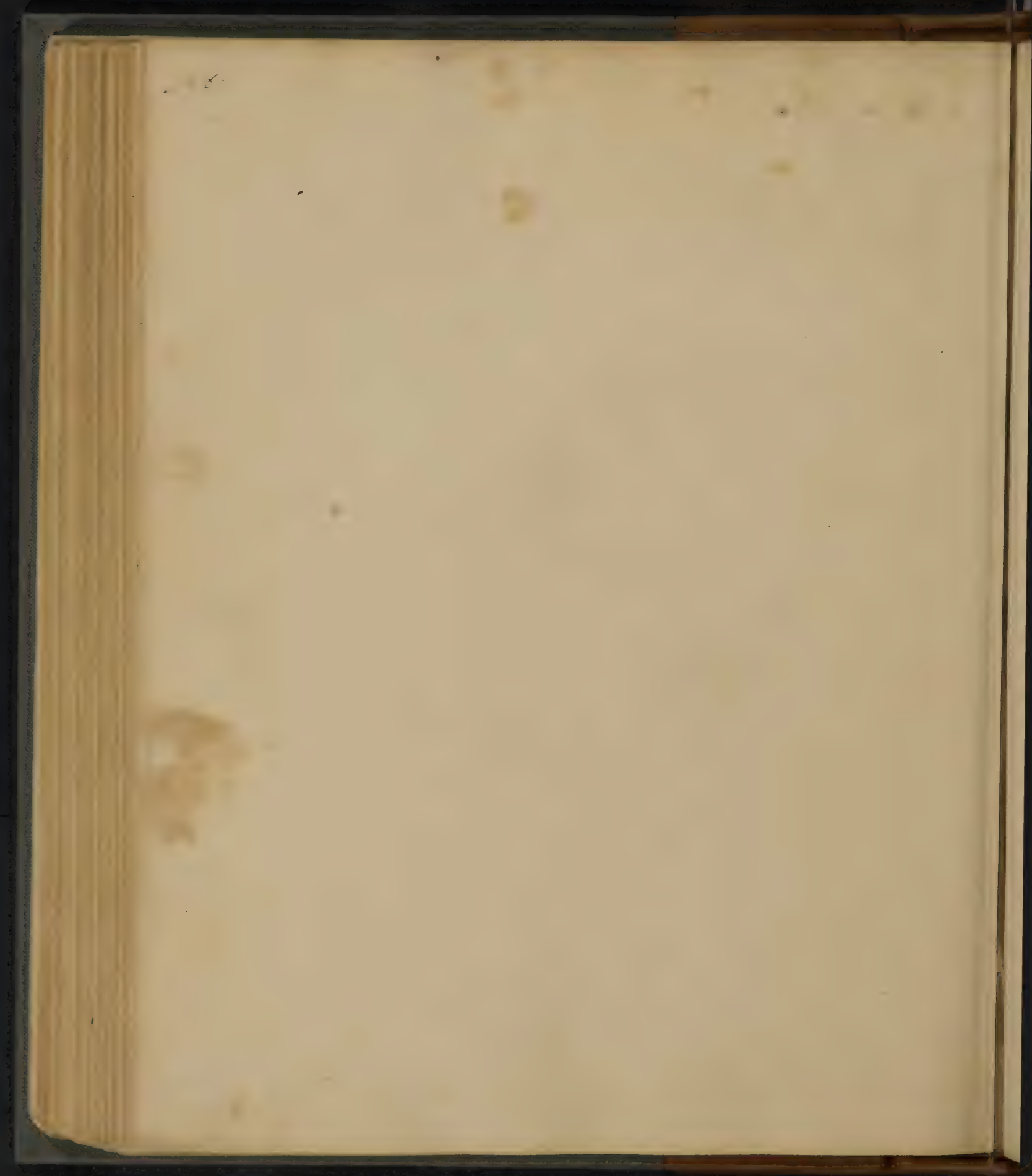


255

226.



121





200

290.





This authority was abused as the clerks & executors were defrauded of their commissions. The Stat. made in 1801 gave the first check to these abuses by compelling the clerks to pay the debts of the deceased. Afterwards in 1804, 1805, 1806 it was enacted that in case of intestacy the ordinary should appoint the "next friend" of the deceased to administer the estate. By this Stat. administrators were created: as the clergy had not before distributed the residue after payment of debts, these administrators determined to retain it themselves. This conduct of theirs gave rise to the Stat. of 1807 relative to the distribution of intestate estates.

The construction given to the words "next friend" was in the Stat. was that the next of kin was always intended, unless there was a husband of the deceased. A subsequent Stat. made it the duty of the ordinary, to give administration to "the widow or next of kin." The old Statutes on this subject form a part of our Poor Law Law. The computation is by the civil law. There is always a discretion in the ordinary to appoint whom he pleases, of those who stand in equal degree.

By the Sup. Stat. 29 Charles, after the debts are paid, the husband is entitled to the surplus, without liability to account. Other administrators are bound to account with the next of kin. We have no such Stat. here, therefore the husband must distribute the residue. If the husband should refuse to do so, under the Sup. Stat. he must account with him.



The 18 have power to grant administration of <sup>Level 4.</sup> <sup>Level 4.</sup>  
 adjacent articles of property, to different persons. <sup>At 42.</sup>  
 But administrations are generally joint  
 females are equally entitled with males. <sup>Principle 110.</sup>  
 may not be admitted, he so well qualified.

It has been questioned whether there is any representation, in regard to the right of administration. This question has been answered, provided for a great deal of discussion. <sup>that 498</sup>  
 but there is not the least reason for the supposition that <sup>Q. 444.</sup>  
 there is a right of representation. "Key of this" is  
 the principle of the Act.

If the next of kin do not choose to administer, an administrator is commonly appointed, if he is a suitable person. <sup>that 498</sup>  
<sup>Q. 444.</sup>

When the executor refuses, the ordinary is usually appointed. <sup>that 498</sup>  
 it is questioned whether the ordinary can be appointed any one else.

A woman is not compellable to act as exec<sup>r</sup>. <sup>that 498</sup>  
 If the ex<sup>r</sup> dies before the estate is administered, his exec<sup>r</sup> is the ex<sup>r</sup> at the first testator. <sup>Level 6.</sup>  
 But if an adm<sup>n</sup> dies before administration is completed, an administrator de bonis non is appointed. <sup>that 498</sup>  
<sup>At 444.</sup>

If one of two ex<sup>rs</sup> dies & leaves an ex<sup>r</sup>, that ex<sup>r</sup> has no concern with the administration of the first estate: The whole comes to the surviving ex<sup>r</sup>, & he, in case the his ex<sup>r</sup> shall administer.

If two are appointed executors & one refuses - still he remains executor, & he, in case the his ex<sup>r</sup> shall administer.

The Sup. court requires that a return must be made in the name of Sup. & that he who refuses shall be removed & dismissed.

Administration is always made in writing & must be in proper manner.

2. Nov. 18  
2. Nov. 24.  
Jan. 263  
In all cases the return is to be made with the executed return. Administration is given & made to two parties. It is commenced as in the case of an office & occurs on the death of an.

So 2:18 Administration is sometimes made per salute lite when the validity of a will is disputed. So when the ex<sup>r</sup> refuses to administer, or dies before probate, or after having probate administered, administration is made ex causa testamenti nunciat. Suppose before the death of the testator he had executed independent & executed a power over the ~~testament~~ <sup>testator</sup> of the institution. It is his power to pay to the executor & he does it in answer to the representation of the first case, & was answered a question. In some cases principle demands the judge

2. Nov. 18  
1. Nov. 24.  
1. Nov. 24.  
In all cases the return is to be made with the executed return. Administration is given & made to two parties. It is commenced as in the case of an office & occurs on the death of an.

Suppose the original executor would issue taken a note of hand to himself. He would not pay to the administrator in the same way - the representation of the first case would occur.



Where the property can be identified it will not go to the executor. Administrators (see also Adm. 192).

If the executor has not arrived at the age of 21, an ad interim administrator is to be appointed. Adm. 192.

If an infant or a person of full age is appointed, the court can transact the business for both.

### Executor de son tort.

Where a person without any authority, does an act which belongs to the office of executor or administrator, and thereby claims a power over the estate, he is an executor in his own wrong. But if it is clear that he has merely done a neighborly act, without any claim, this does not constitute him an executor de son tort. Adm. 192.

There must be an unlawful interference with the affairs of the deceased, such as entering upon the property, taking possession, collecting debts, or paying them. The value of the thing taken is not the criterion. The payment of legacies, or taking a legacy left to him self, or pleading to a writ as executor, will make an executor de son tort. Adm. 192.

A person who receives property without authority from such intermeddler will regularly be treated as executor in his own wrong.

No person can give away his estate on his death bed or as to defeat the claims of creditors. If he does the donee may be treated as executor de son tort. If there be a donatio causa mortis. Even a fraudulent

2 L.R. 97 right by the deceased in, good against his executor, but not against his creditors.

2 L.R. 597  
2 Dec. 65. to one such fraudulent conveyance, for the purpose of paying the debt of the deceased. They are considered as trustees for the creditors.

But acts which may be accounted for on other suppositions make that of a claim of authority do not make one an executor de son tort — as taking care of the property, referring in cases of necessity &c.

2 L.R. 99 That act is sufficient to make one an executor.

2 Dec. 36 de son tort is a question of fact, the fact being proved by the jury. The quid iure furnishes the rule of discrimination. This in the reported case is often kept out of view.

The rules above apply to those cases only when there is no acting adm<sup>r</sup> or exec<sup>r</sup>.

2 L.R. 200  
2 Dec. 38  
5 Dec. 39  
2 Dec. 44 If there is an adm<sup>r</sup> or exec<sup>r</sup>, acting, the intermediate will be a pass paper against him, & is liable and as such.

2 L.R. 99 The grounds on which creditors may sue an executor or administrator is that where such is seen acting as executor, the creditors are not bound to reduce into his power.

An executor of his own wrong is not liable to the extent of the assets he has received. He cannot be held liable. Where one is seen acting as executor, he may be held liable like other executors. After the assets have been exhausted he may be held liable in administration.



But he is still liable for the surplus to the next  
 full year or more, for nominal demand. 2nd. 154  
 3 Co. 39.  
 2 Pac. 391.  
 2nd. 51

When a creditor sues the intermediate he sues  
 him as executor, & he is estopped to deny that he  
 is - but when the exec<sup>r</sup> sues him, he is treated as  
 a stranger. 2 Pac. 279  
 1 Vt. 343  
 5 Co. 31.

There is one case in which an exec<sup>r</sup> de son tort  
 may make him self chargeable for the whole demand. Debat. 49.  
 1 Bos. 205.  
 As if he should plead that he never was exec<sup>r</sup>, & it is  
 found against him. He should have admitted to the  
 amount he had received, & denied as to the rest. 2 Bos. 472  
 2 Pac. 280

It has been said that the exec<sup>r</sup> de sonde in this case  
 could have relief in Equity - tamen quare.

It appears to me that in Cases, it is impossible  
 under circumstances, that there can be one executor  
 de son tort - i.e. if the estate is insolvent. For there is  
 a principle in these cases that the creditors shall share  
 alike: yet if creditors were allowed to sue an exec<sup>r</sup>  
 de son tort, one might obtain more than his share.

There is no more thing here as pleading plene administravit, the exec<sup>r</sup> must pay the whole debt, or the as-  
 sumpsit, if there was a deficiency.

Before Probate of the will the executor cannot  
 maintain an action to secure debts. 2 Co. 292.  
 2nd. 176  
 1st. 400  
 2 Pac. 412.  
 1 Bos. 238  
 1st. 917  
 Though he may pay them, and though he  
 has the legal title.

No act of an administrator is valid till  
 he

Sal. 269. Till he has received letters of administration.

And 277. He derives his authority from the ordinary.  
The executor derives his from the will.  
He cannot however break open the house  
of the heir.

The executor's agent to a legacy is as good before probate as after.

There is a rule that if the person entitled to be administrator should give evidence or make payment of debts, he may recover them again, even after he has been appointed. This rule, I think constitutes of principle. If he should not afterwards be appointed there is no question but that what he has done is void. But if he is appointed I see no reason in his being permitted to rescind all his acts done before appointment. He ought not then to avail himself of his own wrong. But the authorities contradict this notion.

On this principle it is that a bond of the testator is conditional to be paid at a day certain & the testator dies, the executor must pay it, though he has not probate in order to save the penalty.



If there is no executor or no administrator appointed yet, the regular consequence is a forfeiture, but it stands on the same footing as all other cases where a man is prevented by act of God from performance. In this case he could neither perform, nor be ready to perform for he is dead.

The case is the same, if the bond was due to the deceased. In this case, no interest is to be paid. Successibility does not release the debt, but it releases all penalties arising from non payment of it. As you should give a bond for the appearance of J. S. at Court on a day certain, & before the term, J. S. should die. It being impossible that he should appear in Court, the bondsmen is discharged from the penalty. Go. L. 211

If an administrator has probate when he comes to Court, that is enough though he had no letters of administration when the action was commenced. 9 Co. 39.  
10 Co. 52.

But there is a class of cases where the executor need not bring any evidence of his right to be executor or administrator, as  
Where

when the right accrues not in consequence of any injury done to the testator in his life time - when the action is founded on the executor's own right, as for a breach of contract with him. As if the testator's share in the hands of the executor should

2. Bac. 413.

Level. 174. be taken by a stranger, the action may

Carth. 154.

1. Mod. 623.

be maintained without producing the probate of the will: for the ex<sup>r</sup> accrues upon his own possession.

So too if the executor should sell some of the property before probate, he may maintain an action on the contract. It is true that the fruits of the contract are apportioned but still it was made with the executor

### Co-Executors

The general principle is that if there

2. Bac. 395.

1. Com. 240. are more executors than one, they are

Level. 21. deemed one in law: their interest is

El. Com. 343.

1. Hy. 23. entire and indivisible.

If there be two administrators both must join, neither can make a separate release.



I know of no principle why their authority is not  
as joint as that of executors. So is the law. In the  
case in Athens there is a particular exception. <sup>a special</sup>  
If one devise lands to be sold by his executor, it <sup>power; each</sup>  
is said that if there are three executors and one <sup>represents the</sup>  
of them dies, the other two may sell. But if there <sup>testator. &c.</sup>  
are only two executors and one of them dies, it is  
said that the other cannot sell alone.

There has been a question whether one ex-  
ecutor can ever compel his Co executor to ac-  
count with him. There may be cases where it  
would be reasonable that one should account <sup>2 Dec. 1766.</sup>  
with the other; as if there was a residuum which <sup>Lord H.</sup>  
belonged to the executor and that residuum <sup>11 Dec. 1766.</sup>  
was in the hands of one of them.

A Devastavit is a waste of property and  
both of the executors cannot be sued for it. <sup>2 Dec. 1766.</sup>  
If both have been guilty of a devastavit, the other  
is also liable. But the appts have been issued  
by the devastavit and the innocent executor  
is answerable only to the extent of the appts in  
his hands.

If an action should be brought against  
one executor and he should plead that there  
was another executor who ought to be joined, he

2-2  
2d. 307. must note that he has communicated with him.  
2d. 307. for if the other does not get it is no reason of  
2d. 307. a statement.  
2d. 307. a statement.

### Consequence of making a debtor executor.

It was once law that if a debtor was made executor, his debt was discharged for he cannot sue himself. Neither can an administrator, though he would not be discharged, if a debtor. There is certainly no mention in this rule. Since it has since been determined that if a debtor is made executor his debt must be paid to satisfy creditors.

(*vid. ante*)  
(p. 277.) since it has likewise been determined that such a debt is apportioned in the executor's hands for the payment of legacies.

The executor then is now intitled only to the residuum, and indeed not to that, if there was a residuary legatee appointed, or



I have been given to him. I shall  
then be distributed as intestate estate. This is  
the rule when one independent person, not a creditor,  
is appointed executor and it prevails the principle  
of the courts in such the case when a creditor is  
named executor.

179.

### Consequence of making a creditor executor --

A creditor executor may retain his own  
debt, of equal degree with the others, but not  
in preference to those of a superior degree. 2 W. 278.  
Hend. 185.  
Cal. 204.

The case is the same if executor is not a creditor.  
than should be grounds to a creditor.

But the principle of the Common Law, ex-  
ecutors are paid nothing for their trouble.  
Therefore it was that the Common Law gave  
them the residuum.

In some of the states, as in Connecticut

but the executor is allowed fees for his trouble, and in those States there is and can be no claim by the executor for the residuum. In England the executor having no wages for his trouble, is entitled to the residuum if he has no legacy left him by the testator.

The executor may introduce general  
 1 Br. Ch. 228. 391.  
 1 Will. 213. testimony to show that it was the in-  
 2 Bac. 420.  
 2 Lich. 240. tention of the testator, notwithstanding  
 3 P. W. 43. 40.  
 1 Br. Ch. 21. he had bequeathed to him a legacy, that  
 2 Atk. 68.  
 1 Vern. 473. he should have the residuum. And if he  
 2 Atk. 47.  
 3 Atk. 220. may introduce parol testimony to rebut the  
 2 Br. Ch. 300. 465. Equity which would otherwise arise against it —  
 2 Wm. 96.

Letters of administration may be repeated when there is a great difference of opinion in regard to the correctness of a report.

Letters of administration must be repeated when a  
 1 Br. Ch. 203.  
 2 Br. Ch. 45. will is found to be void, or if the same has been  
 2 Br. Ch. 410. granted by mistake to one who was not entitled to it.  
 1 Br. Ch. 18-9.  
 2 Lich. 262. And when the report of him was not undisputed.  
 3 Br. Ch. 55. So when the administration has been obtained by  
 4 Wm. 3. 2. fraud or in violation of law. So when the admin<sup>r</sup> has  
 2 Br. Ch. 911. become a bankrupt &c.  
 1 Br. Ch. 203. becomes a lunatic &c.

Consequences of repeating letters of administration.



There will now be considered.

The mode of appealing is this: the person interested appears before the Council of Probate & then issues a citation to the Adm<sup>r</sup> to appear and c. If they find that administration has been improperly granted, the administration is repeated. If the C<sup>ty</sup> of Probate dissallows the appointment & assigns the appointed appeal lies to the High Court.

It is repeated in some cases, members over this  
which has been some tolerable noise. In other cases  
it does not <sup>have</sup> this effect. If all that has been stated  
and, which must be joined and again to the repetition  
and so.

When the objection is that administration was given  
to a man whose it is repeated an objection, all  
the intermediate acts of the first admin<sup>r</sup> are valid &  
undone in the same manner as if he had been  
the republican adm<sup>r</sup>. But if such an adm<sup>r</sup> had  
gone away the property, the objection may be the  
remains into whose hands the property has come, the  
if he had been a republican adm<sup>r</sup>, the remains may  
have been assigned him. The rule is the same  
when administration has been repeated for another  
or part<sup>ly</sup> acts.

Whenever the administration is reported as collaborative, because presented in incompetent authorities, the whole of the proceedings under it are void. There has been a poor and of Administration presented under.

3d. 125. The acts done were held to be void — for  
the Court had jurisdiction, though the will was forged.

But after a repetition citation is issued, that the  
will had all acts done by the former admin, one does.

Low. R. 182. ins does not hold where there was in making a will  
1. Not. 719.  
1. Lev. 158 left by the deceased. Because say they where there  
2. May 2. 1250 with a will, the Ct of Probate had no power to overturn  
1. 27. the exec<sup>n</sup> of the former granted to him by will. Ct  
Low. 177. of Probate only have authority to appoint, say they,  
1. 47.  
1. 303. when the deceased died intestate. This has been the  
2. 150. generally received opinion, until lately. But I  
1. 411. think the modern opinion by J. Fuller will with-  
1. 238. outly prevail — that the Ct of a man's mor-  
264. tality does not take a case under the in-  
1. 277. vention of the Ct of Probate, if the subject matter is  
280. within their jurisdiction. As long then as their ap-  
2. 182. pointment stands unrepealed, acts done by the  
2. 301. administrator are binding.  
190.

I mean left two wills, — the former being  
revoked by the latter, which was not discovered  
until after probate was given of the first. On  
the subsequent appeal, were the acts done by the  
first exec<sup>n</sup> void or binding? This question depends  
upon precisely the same principle with the last.

Suppose on citation the first judgment is affirmed  
on an appeal. The letters of adm<sup>n</sup> are repealed —  
what are the consequences of such a repeal. Where there  
is a judgment in an inferior Court appealed from, that  
judgment is at an end. Hence all right of the adm<sup>n</sup>



to act is suspended - & his intermediate act  
between the time of the appeal & the judgment of  
repeal are void. Are all the acts which have ever  
been done by the adm<sup>r</sup> & his officers in the re-  
peal. There is a diversity of opinion on this ques-  
tion. For the authorities it seems to be settled that  
where the repeal is upon an appeal & the acts have  
been done by the adm<sup>r</sup> & his officers, as in this case. What  
then is the consequence of this. Why, that the ad-  
ministrator shall be considered as a stranger &  
only liable as executor of his own wrong, who may  
always defend himself by pleading non ad-  
ministravit to the amount of the appts. which  
he has received. The exec<sup>r</sup> & his heirs may have  
the judgment against him indeed, but he will re-  
ceive only nominal damages, if the first adm<sup>r</sup>  
had paid debt &c with the appts. received.

Although the adm<sup>r</sup> may defend himself as, one  
we saw last, suppose the exec<sup>r</sup> should demand  
a repayment from the debtor who have paid the  
former adm<sup>r</sup>, can he recover of him? Surely this  
done by the former adm<sup>r</sup>, it is said is void & that  
of course payment to him is like payment to a stranger  
and therefore it has been held that  
the debtor may be compelled to pay it over again.  
I am not satisfied with the decision. There are  
authorities on the other side, but the current of au-  
thority seems to be in favor of the rule.

## Wills of personal property

A will is the declaration of the testator in relation  
as to the disposition of his estate after his death.

Wills must generally be in writing. To be a will  
there must be an executed appointment. Otherwise, it  
is a testament.

a. 1003

1003

No. 1003

The presumption is that the person mentioned  
in a will had capacity to make it. No one pro-  
bably is allowed upon him who questions its va-  
lidity.

But, persons of sound memory, infants be-  
fore the age of discretion, are incapable of making a  
will. I have known the will of a person who was  
"sane & sober" confirmed, because the testator  
in regard to his property was rational.

The will must be read to the testator, if he is in-  
capable of reading. The wills of a great number of persons have  
been established, where there have been proved to be of sufficient  
discretion. The same probandi is in evidence, as  
the party claiming under the will. The will of a drunk-  
en person has been confirmed, if it was rational in  
the disposition of his estate.

Any kind of coercion or restraint, or "torture"  
where there is an undue influence is sufficient to set a-  
side a will. But such wills may be afterwards con-  
firmed by the testator, if he recovered & does not choose  
to alter them.

In regard to age, there seems to be a variety of opin-  
ions. By the civil law rule, infants could not make wills until



The use of 17. But that fixes the time according  
to the Court's view.

A husband cannot dispose of his wife's choses in action by will, nor of her chattels real, or paraphernalia. An English property holder in joint tenancy cannot be disposed of by will. Yet the testator in all these cases might have disposed of the property in his lifetime. In some of the States in this country, it is said, that all a man's estate may be disposed of by will. In those States, certainly, estates held in joint tenancy might be thus disposed of. A life estate in a lease for years may be devised, with a remainder over to another. To many any other personal property, which from its nature is susceptible of such a limitation. But neither of these can be entailed. The first would take the whole. I think that the true construction would be to give the first devise, an estate for life, with a remainder over to the next taker forever.

As the law now is such wills of de. & property must  
be in writing, in force. I signed by the testator. But  
it is not necessary that the name of the testator should be sub-  
scribed at the bottom; I relied in any case, in his own 2 Vol. 5:1-2  
hand writing, or by another with his direction; it published by  
himself.

There are contradictory opinions on the question whether  
if a will is well executed for the disposition of, because  
properly & sufficient as to real, it shall or shall not be  
used for the whole? I think in many cases the intention  
of the testator would best be carried into effect, by making it  
void in the whole.

273.  
If U.S. municipalities will be sold. But I put me down  
to them as far as possible. The U.S. 2. requires will to be  
written, except in certain cases where the testator is in ex-  
miser. This U.S. was made long after the migration of our an-  
cestors. Would municipalities will be allowed in those states where  
there is no U.S.? I trust our sons & usages to the contrary has  
established a C.A. of our own. The reason for allowing municipa-  
lities will, formerly, has since since ceased.

### Other Duties of Exec<sup>or</sup> & Adm<sup>or</sup>

They must first make an inventory of the estate: for which  
they are accountable to the Ct. of Probate. The articles in the inven-  
tory are to be appraised. But if they should fall short of the ap-  
praised value, the exec<sup>or</sup> is not liable for the whole. If the  
property exceed the appraised value, the exec<sup>or</sup> is liable for the whole.  
Lent 22.  
40. property exceed the appraised value, the exec<sup>or</sup> is liable for the whole.

7 Lk 483. The object of the appraisal is to ascertain the value of the estate.  
8 Lk 61.

674. Adm<sup>or</sup> should choose to take it in lieu of their legacy, as it  
is prima facie evidence always of the worth of the property.

When judgment is obtained against the exec<sup>or</sup> it is proper to sue  
against the estate. If the exec<sup>or</sup> has made an inventory, he  
must value the goods & turn them into money. A question  
is always allowed him & this may be extended for reasonable  
cause as the Ct. He must then pay the debts. He may  
sell any property - but yet it is not reasonable in him to  
sell specific legacies, if he has other property sufficient. But he  
must always account for their value. But the C.A. presu-  
me that all charges are first to be paid, and the expense of proving  
the will, - then debts due to the heirs - or for the last  
illness of the decedent - debts of record - bonds, covenants &c.  
- debts on simple contracts - then legacies &c.

1. 10 Lk 102

Talk 277.

2. 10 Lk 52

2. 10 Lk 82.



In Bank there is no preference except in case of debt due to the public, furnished as was our last notice, debt. Our rule is certainly more equitable than the Eng<sup>l</sup>.

There is no average in Eng<sup>d</sup> where the debt are of equal claims; - The exec<sup>r</sup> may give which he pleased - or he cannot prefer a debt in present, solaci. dum in futuro - to one solaci. dum in present.

If the eye "should" pay a visit to inferior as once fresh blood is  
 then there should prove a deficiency of spirit - He cannot  
 depend himself in an action but another visit of higher rank.  
 He becomes personally little himself.

62. 67. 315.

1 P.R. 690.

2 Nov 52 49.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20.

Feb. 2. Nov. 432

L. B. M. 413.

sent:

For the rule regarding necessary bonds (supra) issued as 1. 9th. 290  
I have interested myself always inquirin into the consideration  
of a bond.

Dec. 1. Fri.

Suppose there is a debt due 10 years hence - the ex<sup>or</sup>.  
cannot obtain a writ for the payment of that. Suppose he be-  
come bankrupt, after paying the legacies, not having re-  
ceived money for the payment of this debt - Can the  
cred<sup>or</sup> come upon the legacies? It is certainly a rule  
that creditors must always be paid before the volunteers,  
can avail themselves of the estate.

2. But there is no law compelling persons to exhibit their claims against an estate within a limited time. Heals may arise at any time. For that the exec<sup>r</sup> may at any time take bond of the legatee, on payment of their claims. It may often happen that the legatee of poor will be unable to procure bond.

2.

Re -

1998

all.

Then the executor's law paid out all the debts prop-  
erty. The new pled pleas administravit to other ac-  
countants.

2. Executors may sometimes sue in their own names  
in some cases in the name of the testator's name. These  
2d 682. The action is for an injury which happens after the testa-  
tor's death (as a conversion &c) then may sue in their own  
181. names. Then they are liable, on failure, for costs. Otherwise  
they are not, at law. name.

3d 524. The executor is not obliged to avoid himself of the  
testator's limitations. Since after he is obliged to take ac-  
cording to the intention of a contract. But it is doubtful  
whether when the claim is conversion &c. the  
same follows. If the contract is in writing with an  
instrument, the executor obliged to admit himself to it?  
On this question there is a diversity of opinion. I  
think that if the executor does pay the sum due on such  
a bond, it will be no discharge.

Personal property is a gift in the hands of the testator  
Tith in a park, deer in a park, deer in a deer house  
being for a nation, so not so to the executor. But  
Tith of these are tenements the exec<sup>r</sup> shall have  
them.

4th 55. The annual rent for land does not belong to  
the exec<sup>r</sup>. The growing rent is real & is in the hands of  
the land. This is where the land is leased at the rent  
2d 55. 1st. for a term. But rent reserved on a lease for years  
to an undiscovered man to the exec<sup>r</sup>.



Emblements are sometimes real & sometimes personal. When one makes a lease of land to another, the emblements are leased with the land.

But in most cases emblements are personal, & go to the exec<sup>r</sup>, on the death of the tenant. In between the exec<sup>r</sup> & heir, emblements are always personal.

With regard to things affixed to the freehold, there has been an entire revolution in opinion since the old decisions. It was formerly said, that if things were ever so slightly affixed to the freehold, as to be removed they were real property & went to the heir. But now, whenever the thing can be removed without injury, it is personal & goes to the exec<sup>r</sup>.

Reversions & Equities of Redemption are real assets.

Indentures in the hands of the mortgagor are personal property, & will pass in a will without being attested by three subscribing witnesses. If the heir obtains a foreclosure he must pay the exec<sup>r</sup> the money - or Ch<sup>cy</sup> will compell him to make a deed of it to the exec<sup>r</sup>.

Receivers Review by Adm<sup>r</sup>. &c

The condition of these bonds is that the Adm<sup>r</sup> will inventory the estate &c. Now a creditor can only recover against the Adm<sup>r</sup>, to the amount of his assets, which are only the property inventoried. But if there was other property which was not inventoried, there may be a recovery on the bond, to the full amount. The bond is

20<sup>th</sup> 72  
 Nov. 1802  
 March 76  
 12<sup>th</sup> May 1808  
 2<sup>nd</sup> Dec. 1821  
 5<sup>th</sup> Dec. 29  
 5<sup>th</sup> Dec. 46  
 1<sup>st</sup> Dec. 79  
 6<sup>th</sup> Dec. 87  
 12<sup>th</sup> Dec. 1817 time.

given to the Pope; the recovery is in his name.  
 If more is recovered than the amount of the debt,  
 there is an increase of the residue.

Another condition of the bond is to distribute the  
 estate as the law directs & to settle it within a limited

The person who undertakes to sue on exec<sup>or</sup> declares against  
 him in such: & the recovery & execution is against the  
 estate in his hands. His person is not liable to arrest.

If no estate is found, the officer returns nulla bona.  
 This lays the foundation of a second action against the  
 executor on scire facias & judgment is recovered against  
 his own estate. The exec<sup>or</sup> not having pleaded pres-

- 1<sup>st</sup> Term 674.  
 erit. 43. cannot avail himself of it in the second.

In case of a devastant, the action is brought as in  
 the first case & judgment recovered & on nulla bona re-

erit. 527  
 8<sup>th</sup> Dec. 350  
 1<sup>st</sup> Dec. 213  
 5<sup>th</sup> Dec. 32

turned, This lays the foundation of a scire facias for  
 a devastant. (which is either returned by the Sheriff, or  
 suggested by the p<sup>ty</sup>, & a commission issued to the Sheriff  
 to try the fact by a jury of 12 men). In some of the States  
 the devastant is required even to give a pledge adminis-  
 trator on the scire facias against the exec<sup>or</sup> & his  
 without occurring to a third suit as in Eng.

In Eng. there is no limitation to the claims against  
 the exec<sup>or</sup> & admin. in Court? Here, those who have not  
 presented their claims for settlement are not entitled to  
 any concern with the rest.



The Exec, & every where else, where there is a prior-  
ity of debts, place Administration is a proper place. But  
in Canada, it is no place except against the claims of  
legatees.

The Exec or Adm may here always represent  
the estate insolvent, if he think proper. Commissioners  
are then appointed, who examine & admit or re-  
ject the claims which are presented. The creditor whose  
claim is rejected by them may appeal to the Ct of  
probate & on affirmance by that Ct is conclusive.  
But if the claim is admitted by the Ct, the Exec is  
not concerned.

In Canada, as here every one, deceased is  
never pleaded. The remedy is on the bond. One law  
on this subject is very equitable, & much preferable  
to the English. In the English Bankrupt laws, the  
object of their legislature seems to have been to make  
people honest while living. The object of ours, in the  
settlement of estates has been said to be to keep them so  
after they are dead.

C. C. C.





357

258.





364



361.

262.



266

266

101



## Sheriffs & Gaolers.

The word Sheriff is derived from the Saxon words 1280. 379.  
Here & Reeve which are synonymous with the 341-3  
English words Governor of a County

By Stat. 4. Edw. 2. c. 23 & 23 H. 6 the Sheriff can hold his 450 32.  
office for one year only, but his commission still em- 1. H. 6. 342.  
powers an officer to be holden during pleasure.

In County - a Sheriff is appointed for each county, by the  
Governor & Council & holds his office during the plea-  
sure of the board which appoints him - so that here  
his office can determine either by death, resignation  
or removal.

Since the consti-  
tution they are  
appointed by the  
Gen. Assembly  
for three years,  
subject to remo-  
val by those  
who appoint  
them

Every Sheriff must reside in the county for which he  
is appointed, for he has no jurisdiction out  
of that county. But if it become necessary, for the  
completion of an official act begun in his own coun-  
ty he may for this purpose go out of it. For ex-  
ample the usurers are taken in his own County he may re-  
turn the writ into another County - so if the Sheriff  
of the County of A. has a writ directed to him,  
to cause a prisoner from the County of A. to be brought  
to the County of B. he has authority for this. If the Sheriff, 1. H. 6. 37.  
once in the County of A. escapes & goes into another  
he cannot be punished, & is taken by the Sheriff, in the  
County into which he has fled.

A Sheriff man, at Common law & of common right,  
 holds 13. appoints deputies or undersheriffs, & there may  
 hold 242. exercise all the ministerial offices of the Sheriff him-  
 self.

All ministerial offices, in several are exercisable, in  
 deputy. A Sheriff has other rights, not ministerial,  
 which will be noticed hereafter.

But in Court, the Sheriff cannot appoint  
 a general deputy, without the consent of the county  
 Court. & still however the Sheriff of one county may  
 appoint the Sheriff of another county his deputy, with-  
 out this consent.

The Sheriff has a right to deprive the deputy  
 of his office, at pleasure. - the latter being a mere ser-  
 vant or agent of the Sheriff. But he cannot fast  
 hold 13. him under any obligation to remain from exercising  
 any of the duties of his office: for, there, the deputy is  
 bound in law to discharge.

But in Court the County may fine, im-  
 prison, or attach a deputy Sheriff. This is a  
 power unknown to the common law.

In Court, the deputy acts officially, only in the name  
 of the Sheriff. The returns of the deputy are in the name  
 of the Sheriff. the former being however at common law,  
 only as the servant of the latter. - But in Court, he  
 is regarded as a known public officer, - act in his  
 own name & would be directed to him, as well as to the Sheriff.



whereas in Eng<sup>y</sup> they are assigned to the Sheriff alone. 207

It will be said to the Sheriff only, may then be that 287  
executed by the sheriff in his own name.

A covenant or contract shall bind in a specialty  
made with the Sheriff, not to execute process, &c. &c. 287-  
This description, is void as against law, for the law  
in view of a statute, gives the sheriff to execute all  
legal process entrusted to him.

The Sheriff, being himself a sovereign cannot  
delegate his functions to another. For it is a general  
rule that a delegated authority cannot be subde-  
legated over. This is also a political maxim, is well  
illustrated in the Eng<sup>y</sup> Parliament, where a mem-  
ber of the House of Commons, being a deputy, can-  
not vote by proxy; while to a member of the House  
of Lords, who is not a representative this privilege  
is allowed.

It follows that a Deputy can exercise his authority  
in some cases. But this rule does not prevent him  
from receiving or even commanding a faithful assistance  
in the exercise of his office. He may empower an-  
other to do a particular act in his presence, for this  
is considered as done in himself, but he cannot  
make an appointment which will restrict to an-  
other. It is not so in 288. 21. That an agent  
successor is a deputy & a deputy is not an agent.  
But this cannot signify, since to say of an agent that





proceeds. The Sheriff has no power to take any money out of the  
treasury of the county for his private use. It is only for the use of the  
county. See 17th. Stat. 1791. Feb. 18.

As we have in England met one person in a county  
we have determined that the Sheriff being officer of the  
peace, cannot be worried in any civil suit. The sur-  
vivor of course is to continue to be taken. But there  
would be an objection in committing the Sheriff to  
any prison. He had the power to take it from him.  
Feb. 18.

Take the rule in England then is some civil suit. Feb. 18.  
But in the Sheriff's case this subject is not settled. It is true that  
the Sheriff can be committed to prison for some offence.  
He is not the Sheriff.

That is to be done in a criminal case? There  
is no express authority on this point. But it seems  
that no man is to be committed to prison for  
any offence committed in the civil part of his  
conduct.

How far the Sheriff is liable for the acts & omissions of  
his deputies.

The Deputy being used a servant of the Sheriff,  
he is in strict law liable for the acts & omissions  
of his deputy. The act of the deputy in the execution  
of his office are in general, considered as the acts  
of the Sheriff. See Law of the Sheriff in some cases.  
9. Co. 118. 11th. 118. 12. Co. 118.

Where the Sheriff is allowed to take security from the

He is liable for the faith but discharge of his duties for  
 the whole, in no way, liable. He could have no more  
 right to take security than any third person.

As to the extent of the Sheriff's liability the law is this:  
 The official acts of the Sheriff are acts of civil negligence  
 imputed as the acts of the Sheriff. Of course for such acts  
 he should be liable civilly, when the injury is occasioned  
 by them to a third person. But the Sheriff is not liable  
 criminally for the mismanagement of his deputy. For ex-

ample, if a criminal, he must have been actually  
 guilty of the offence. But to subject him civilly, in  
 the case of a criminal, that the injury was done by his deputy.

There is no such thing as a legal imputation of an  
 offence to a person who is not actually guilty. It is  
 the maxim of the law that "mens rea non potest transire  
 alicui."

This rule does not subject the Sheriff, or the private  
 agent of his deputy, in the commission of them, as does  
 not so, as strictly, as it does the deputy himself. But the  
 Sheriff is not liable. But if in the execution of his  
 duty he is negligent and inefficient as if he com-  
 mitted an error in the execution of the office the Sheriff is liable.

From the diversity in the case in relation of this rule  
 a question arises whether the Sheriff is liable. It is  
 debated under an explicit decision of the court in the case  
 upon the propriety of the Sheriff's liability. That in this  
 case, the Sheriff was not liable in consequence of the mis-  
 management of the deputy, but he was liable in the case of his own.



It has been decided that in the report 1887 under 4 Nov. 442.  
a writ of Habeas corpus was granted after the Sheriff is 3 Nov. 302.  
liable; and in this case it was taken liable in discharge of 2 Nov. 302.  
of prison. This is a departure from the analogy of master & servant  
in which in such case being liable in discharge on the case  
the Sheriff & all his subordinates are considered in law as public Nov. 2.  
officers. 2 Nov. 302.

For the Sheriff more negligent, the Sheriff only is liable & the dep-  
uty is not accord<sup>d</sup> to the Com. law rule. If the dep<sup>t</sup> should omit to execute  
incept or if a ward should refuse to escape, the remedy  
is against the Sheriff alone. The C. L. does not know the deputy as  
a public officer. "Breaches of duty" is the term made use of in the book,  
but this is much too comprehensive. The writ in Eng<sup>d</sup> is directed to the  
Sheriff alone, so that in producing it it cannot appear that the dep<sup>t</sup> has  
been guilty of any negligence. But on the other hand for a positive  
breach the dep<sup>t</sup> is liable as well as the Sheriff. The point is made  
clear that the dep<sup>t</sup> is a more private sort of officer - but when the deputy  
receives from some unpaid the party cannot trace his right against  
the deputy. If justice suffers a violent escape, the Sheriff may sue him  
as any private individual for doing the same thing as to removal of prison.  
If dep<sup>t</sup> coll<sup>d</sup> or misused on any account it is a positive wrong on.

For the deputy of a justice & deputy appointed at the justice report 1887.  
The deputy is never liable to the justice. The dep<sup>t</sup> is rather the agent of  
the justice than of the justice.

No distinction of the law between the liability of the deputy  
in a breach of duty and misfeasance is not known in law.  
The deputy is never known as a public officer - with an exception to him -  
he is never known, never for negligence as well as for positive trouble. The  
deputy is never liable as a public officer.





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A minor kind of officer is one who executes the law in obedience to the command of some superior. The executive officer is one who executes the law without being under command from a superior; or, where a Sheriff suppresses a riot, so without any warrant from a magistrate, he acts as an executive officer.

The Sheriff as keeper or conservator of the peace, H. 3. 393  
The Sheriff is the first executive officer in the County, Stat. 8. 184  
& can command the assistance of all others, occasionally, to enable him to execute the duties of his office.

He has authority, at C. L., to commit to prison C. L. 168.  
all who break the peace, or attempt to break it. Stat. 430  
and may bind them to keep the peace. He is bound 453  
to commit all traitors C. L. to protect the counties from public enemies, & to execute any of these powers he may command the assistance of the posse comitatus which consists at C. L. of all males above the age of 15, except peers of the realm.

Sec. 6. The Sheriff is empowered by Stat. to suppress Stat. 384.  
all riots & tumults, & other unlawful assemblies—  
to arrest without warrant all disturbers of the peace &  
to command all necessary assistance.

He has then the same general powers as at Com. Law— The same power is in Consts, given to constables to preserve the peace within their respective towns, or to suppress in their counties.

[illegible]

It is a ministerial office. The thought is loaned  
to execute all legal process regularly devoted to  
him & are released he is subject to a Law to  
give him <sup>the</sup> <sup>power</sup> <sup>of</sup> <sup>the</sup> <sup>law</sup> to a conviction on the  
spot in <sup>the</sup> <sup>case</sup> <sup>of</sup> <sup>the</sup> <sup>party</sup> <sup>a</sup> <sup>conviction</sup>

91. The rule in Qua. The plaintiff has the right to return.  
 92. The rule against him to return the writ in an  
 93. action trio & then if he fails, an attachment &  
 94. an arrest of him. The court, the master is  
 to see him in an action of the case.

But that makes it the duty of the Sheriff to give  
a receipt in writing for every writ delivered to him  
- or on his refusal to do it, other persons present  
may put their hands to the receipt, which will  
then be evidence against the Sheriff.

2. Co. 20. is available, I was unable to have his visit before  
Co. 1 480.  
S.P.R. 107. is covered as to his property under in that case  
of S. 104.  
mandated, but after seizure he is unable to  
show his right, to interfere in part of the ground  
of the record. But a Special Attorney General  
is a special officer who has his visit before he makes  
the record as required it is recommended. And the  
refers to the same as a faithful record. And in  
individuals are not assumed to know of the expense in





lawful custody. And in the case of an illegal  
 1. Feb. 95. arrest on Sunday the Ct will discharge the  
 4. Mar. 56. person on motion.

### Escapes

Whereas a person being under lawful arrest &  
 1. Mar. 27. restrained of his liberty either violently or privately e-  
 scapes that arrest & is required to go at large before  
 he is returned in due course of law he is said to  
 1. Apr. 65. escape. It is essential to an es-  
 cape that there be a premise dear arrest. For the  
 evasion of an illegal arrest is no escape in law.

Arrest

Every arrest to be legal, lawful, must  
 be made in pursuance of lawful authority. The arrest  
 1. Mar. 55. not thus made is void. It is not to be understood  
 however, that a writ or warrant is always indispens-  
 able - lawful authority being other or without  
 such a warrant &c.

When the arrest is made by virtue of a writ or  
 warrant the rule of the Court is, that  
 of the Ct from whose authority the writ issues the in-  
 vestigation of the subject matter of the complaint the

2. Mar. 88. arrest is lawful - and a person after such an  
 2. Co. 14. arrest is permitted to go at large. The Sheriff is not  
 3. 64. bound to return the person to the Court. It is not  
 2. 59. a crime to escape. But it is true that the person is  
 2. 59. liable to be taken up by some other officer.  
 2. 59. Arrest is not void: For such process is  
 valid all along by some course of law.



It then would follow from the R. v. H. B. in Ex. d. case. 77  
mandamus the Sheriff to make the warrant returnable  
although the process may have been executed.  
The warrant is not void. If on the other hand the  
S. had no jurisdiction of the subject matter, both  
process & warrant would be void; & the Sheriff in returning  
a Habeas Corpus the prisoner, would not be guilty of an  
escape.

The Court in Ex. d. & others are here in error  
in adding a qualification to this rule - that though  
the warrant is void, the Sheriff shall not be liable  
to the facts in prison, unless the process appears  
on the face of it to be void. The jurisdiction of Jus-  
tices at the peace may often furnish cases of this  
sort where the process shall be void & yet the  
warrant not be affected on the face of it.

But the jurisdiction may occur in some cases  
location: for in certain cases, tho' the S. has the  
warrant & may have complete jurisdiction over the  
subject matter, yet the process may be void for irreg-  
ularity; as if the writ is returnable to a more distant  
Term there is no way to give effect to the service.

It is absolutely necessary for the security of the debt  
that such a writ should be void. For on the same prin-  
ciple that a simple Term may be passed over, a writ  
may be issued returnable 20 years hence, & if the  
process is merely erroneous, the debt must remain in

J. Wils. 241.  
1. Inst. 215.  
Ex. d. 148.  
Carr. 148.  
Falk. 273.

custody, or under bonds for the whole time, until the  
service of the Act, at that distant period; & after all,  
he would have no remedy against the party oppressing  
him.

in fact I never ~~proceed~~<sup>think</sup> does not usually take  
place till I have ~~afforded~~<sup>thought</sup> to the ~~adv~~<sup>adv</sup> - in fact, it is  
very rare. The several new has ~~has~~<sup>has</sup> been, and not  
then strictly a day to the date.

The proof is thus an exactness mentioned.  
It is worth to regard at a single jurisdiction the  
infixes are said, in which case, if the  
is found in one part having authority or otherwise  
it is not having jurisdiction in the other matter.  
The same is true in which the two are  
said.

179. In the case of a Sheriff having taken an arrest on  
180. P. 24. Since the Sheriff has been authorized to a stranger's authority  
to keep the prisoner in the absence of the Sheriff, it is  
the Sheriff who keeps the prisoner with a keeper he is not  
to be excused. In the case of a Sheriff, there is a very con-  
siderable probability in addition to this rule.

Exp. 694 To make an acetate of iron it must be mixed in  
4 lbs. 236 with sulphuric acid. 2 lbs. 4 must be added to  
the mixture made. Turners then says 4 no. 694.

What constitutes our social system? How can it  
ever make an error? The most common notion  
among the people here, as well as everywhere





Aug. 6. But it is not necessary that the officer should actually  
6. 1865 be in sight of the person in custody at the arrest. He  
Ep. 1865 must be near him & in pursuit of the same person.

The arrest on the Sabbath is also said to be illegal un-  
less it is not possible of an escape, if he permits the  
cal. 70 person to go at large. The word escape imports a  
Ep. 1865 will. 95 wound; which could not exist in this case.

If the officer having a particular to arrest a person  
in Feb. 22- reflects to arrest him, & the latter eludes an arrest,  
in Feb. 27- the officer is liable to the party in an action on the Bre.  
in Feb. 28- but not for an escape.

So, I conceive if the arrest is made by breaking  
Ep. 1864- the outer door or window of the shop, there can be  
Cal. 9. no escape.

The Sheriff cannot break the outer door or window  
of a dwelling house to arrest the owner or take his  
goods, in a civil case. The reason assigned is, that

his dwelling house is his castle; & in the ancient books  
43. 9. It is said that the sheriff would be exposed to great  
in Feb. 21- damages for breaking the door open from thieves & the  
in Feb. 62- like. There is something exceedingly absurd in this  
in Feb. 84- doctrine.

It is said in some of the old books that the execu-  
tion of the process is the arrest. It is said, though the  
officer is liable in a trespass. There is certainly an incon-  
4th vol. 5th 354. gruity in the doctrine that the arrest, would be said  
to be the ground which is the party & the process.



*[Faint handwritten notes:]*

J.C.

Oct 7<sup>th</sup>. Nov. 1867  
S. C. & J. B.  
Nov. 1867  
920  
H. H. & S. W.  
Aug. 1

7. Feb. 3 P.B.  
Lulu. 7  
Pauline. 4  
Walter. 6  
L. 2  
L. 1  
L. 1  
L. 1

Table. 47.

560 23.0  
1.50 1.180.

200. 71.  
200. 131  
200. 606  
200. 107

38.

28.  
I think it is better to leave the matter as it is  
rather than to proceed with an investigation which  
is sure to be fruitless. But if he is really suspected  
of having committed a crime, it is better to arrest  
him and his co-conspirators, if the suspicion is well  
founded. The office of the Secretary is to be.

4 Dec 50 I think I am assured has taken place in a house.  
 1900. 20 I am now no longer open to view. I think it is a great  
 a beautiful place. I had in a small of this. 1900. 20  
 1900. 20. I remain. The the space is mostly empty. The house may  
 be broken the the again. This is an excellent example  
 now. 1900. 20.

17. 186  
Hello, 186  
The above is a view of the  
the, it is a fine view of the  
with view to the

in a case when the thing bailiff having entered  
the house lawfully was locked in in the party, the thing  
was invited in occasion to release him.

6. 1884 in to his own house. The place was a visit to bank  
 1884 the house to collect him.

[illegible]





are all considered as the same.

The rule as to killing a prisoner is not at all uniform. It is a maxim it is said in *Ex D. Hall* that it is

1843 3000 *Ex D. Hall* that a Sheriff who beheaded a prisoner under a nation's command to execute him was guilty of a voluntary escape. The authorities that were cited in this case have since been decided. It was indeed a most unauthoritative decision.

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If a prisoner leaves the custody of the jail yard and a suspicion to escape is entertained by the



38. —

25. 12. 131.  
10. 1. 132.  
1. 2. 132.

With regard to the conduct of the party, I observe, that the Society is not bound to demand that in evidence, upon account given, in any case. And I think even still he has rendered more satisfaction to some extent, in the manner of the previous and pleasure.

1. Consistency is an article which happens with  
and the consent of the officer who has custody of the  
prisoner. If the prison master, the agent or others  
from the officer as being contrary to the officer's mind  
and of a negligent state. It is a prison seized  
to be seen in the location. The prison is the same  
means to which the keeper is not committing the agent  
is negligent.





The appearance of the debt is not necessary to have  
money received or paid.

But if a person arrested on a writ of habeas corpus is  
detained to answer the charges against him to a  
large, well made jury, and if the jury find him  
guilty, it is a case of a person who has been  
convicted of a crime. The jury does not decide the  
case, it is a matter for the court to decide. The  
court must consider the evidence and the law.  
If the jury find him guilty, it is a case of a  
person who has been convicted of a crime.

The court may also be asked to decide, when the  
case is a case of a person who has been convicted  
of a crime, and the court may also be asked to  
decide, when the case is a case of a person who  
has been convicted of a crime, and the court may  
also be asked to decide, when the case is a case  
of a person who has been convicted of a crime.

There is a difference in the consequences of a  
case in state or in federal court.

When a writ of habeas corpus is granted, the thing  
is said to be an action on the writ. The writ  
is a writ of habeas corpus, and the thing is  
said to be an action on the writ. The writ  
is a writ of habeas corpus, and the thing is  
said to be an action on the writ. The writ  
is a writ of habeas corpus, and the thing is  
said to be an action on the writ.

It is against the right of the plaintiff to have been made  
by the evidence in the action against him, it is  
unreasonable that he should ever be allowed to a-  
vail himself of the same evidence in the action  
against the sheriff for a wrong, which deprived the  
plaintiff of his remedy against the party wronging.

On the other hand for an escape on first  
2 B. & S. 300. The plaintiff may have either an action on  
2 B. & S. 300. the case against the sheriff, or an action of trespass  
2 B. & S. 300. in the latter.

If the plaintiff brings an action on the case against the  
sheriff he may give what damages he thinks  
proper - The law allows damages against the escapee  
2 B. & S. 300. a trespass. By the jury give the whole amount.  
2 B. & S. 300. against the sheriff - The plaintiff cannot have another  
action against the escapee, but if this is a special  
damages in the action against the sheriff the plaintiff  
may still recover his debt from the escapee.

2 B. & S. 300. That if the plaintiff brings debt against the sheriff  
2 B. & S. 300. he may give the whole sum for which the  
2 B. & S. 300. material debt was caused in execution - debt  
but the debt is considered as transferred to the  
sheriff.

In case on the same it seems that in  
case of a voluntary escape from prison whether on  
main or bail process whatever the form of action  
may be the plaintiff may give the whole amount of <sup>debt</sup>









"rescue" in the Sheriff is conclusive in an action  
 by the plff against him. The law will not suffer  
 the return of the Sheriff to be pleaded in the action Co. E. 781.  
 but the Sheriff may be sued for a false return Coul. 195.  
 if such is the fact. The reason for this rule that 1 Vent. 224.  
 the return cannot be traversed in the action for an 2 Vent. 175.  
 escape against the Sheriff is that the law will not 4 Mac 409.  
 permit such an official act to be overruled, but  
 by proceedings which shall put it directly in issue.  
 Does not know whether this distinction will be retained  
 in action or not. In an action case the re-  
 turn of the Sheriff is here returned to be overruled. In  
 which the plff has returned service within time and  
 made. He says it here returned to avoid himself in  
 it, he pleads in action?

Where a person has been rescued from the Sheriff  
 he must have his action against the rescuer. It  
 appears in trial of action that it is very 11. 7. 10  
 than ever and where he is exposed to an action Soll. 80  
 in trial of the plff, I should not extend to him  
 cases where a rescue is an excuse for the Sheriff.  
 For he cannot sue in action in the person of an  
 other, like a rescue of property.

It is established also, that if a Sheriff brings an  
action in rescue, rescue is no excuse for him  
 for he is supposed to be attended by the power of the  
county.

It is a general rule that after a person is indicted upon  
any one process is committed to prison, nothing, but  
the act of God or of public enemies will excuse the  
officer in case of an escape. Hence, it is a rule that  
166. 84 fine, unless accompanied by a bondman, is no excuse.  
167. 746 In the proclamation in London in 1666 the Sheriff  
168. 113 by 666 were liable to it; in Lord E. Goddard's case, particu-  
larly in a special act, saved the Sheriff from lia-  
bility. There are several other cases, but the question of the  
law cannot be left. The law cannot distinguish be-  
tween the amount of force employed in the different  
cases in executing an escape & whether the sheriff con-  
siders it to be an escape or not. In some cases  
the Legislature has always interfered to save an in-  
nocent Sheriff from ruin. For the same reason, the  
law will not vindicate the expenses of one or more  
of the sheriffs. Thus one who is himself a volun-  
teer

Differences in the consequences of Voluntary  
and of Compulsory Escape.

Formerly it was held that in case of a volun-  
tary escape, the sheriff was not liable for the escape, but  
was absolutely discharged if the party was not, & his liability  
was absolutely transferred to the Sheriff. This rule was  
evidently the result of a mistaken spirit of inter-  
ference to operate for all in the Sheriff at all events.  
But now, the party may have either a new action of



held on his indictment against the escape or his sci-  
fac. a new execution. This is the common law rule. 2 Wm. 209  
The Stat. in 5 Geo. 2 the new execution may issue 202  
against the escape without a scire facias & as the 2 Wm. 209  
P. Law is now understood, the J.P. may retake the 241.  
prisoner under the old execution. 27th 176

And if when a person is committed on a writ for a  
crime, he escapes, the J.P. may retake him by virtue of the  
escape warrant. 27th 176

But the officer apprehending the offender escape, being  
himself a party, cannot retake the prisoner. 27th 176  
or use any other force or violence against him.

And if the officer does retake it he takes the prisoner  
only, & is not liable for false imprisonment. 27th 176

And for the same reason a bailor is not liable for  
the escape of a voluntary escape is used, as being  
a private law. It is a bond to indemnify him, for something  
an offence. Or shall make no other use. 27th 176

But the J.P. may retake the prisoner, provided he  
is not a party, & he may retake the prisoner, provided  
he is not a party, & he may retake the prisoner, provided  
he is not a party. 27th 176

But in case of a voluntary escape the officer  
may retake the escape or he may retake the  
prisoner by virtue of a warrant issued for the escape.  
He need not wait till the J.P. has recovered a warrant  
for him. 27th 176

Ex. 58. 59.  
Ex. 60. 61.

But the Sheriff's bailiff cannot, in the same way, have  
any action against the escape. That is the thing.  
Ex. 8. 349. received against him. For the Sheriff is not liable  
Ex. 181. 613. for the law, it is said, as a known public officer. He  
is liable only on his contract between himself &  
the Sheriff. This is certainly a hard case.

1848. 107. A point escapes answer to taken by an escape  
warrant in a state different from that in which  
the escape took place. The case, a question of this  
nature is not likely to arise. But here it arises fre-  
quently. I suppose. I'd mention an escape to this la-  
sion then, whether special bail, by virtue of the  
5. 181. 72. n. bail piece, may relate this principal in a writ  
Ex. 181. 613. habeas. But in case of this kind which hap-  
pened in this case, I have an opinion on this  
question, that the bail might relate this principal  
under the bail piece, in another State. This  
opinion has been confirmed by judicial decisions  
in some of New York.

Ex. 181. 613. 4. 181. 613. I have an opinion on this question, that the bail might relate this principal under the bail piece, in another State. This opinion has been confirmed by judicial decisions in some of New York.

Ex. 181. 613. 4. 181. 613. I have an opinion on this question, that the bail might relate this principal under the bail piece, in another State. This opinion has been confirmed by judicial decisions in some of New York.



Officers who will not even attempt the execution on a charge of a crime are punished by firing; but officers who suffer the voluntary escape of a felon, are considered as accomplices after the fact, & an conviction of the principal, are punishable as such.

But before the completion of the escape, the <sup>1st</sup> 4-9<sup>th</sup> Mo. 130.  
 can easily be finished so far as a misstatement of fact. <sup>1st</sup> Oct. 1860  
 1861. <sup>2nd</sup> March 1861.  
 Now even should the escape should never be re-  
 taken.

It is after a very long time, the thing is like the  
 person in fact with the same and also, because of the  
 himself in reality to the fact is another way. The  
 taking the fact with the same and retaining the action  
 of the same in the fact.





of the amount of the execution, for the commitment -  
 The officer is further obliged, as to the execution, to act  
 with a partner.





must be made him self from difficulty in a prison  
overruling the escape to be voluntary as the case of  
Ward is precedent. Then the case appears on the re-  
cord in its true light.

In a unlawful escape the Sheriff only is liable not  
his under officers. In case of a voluntary escape the  
under officers are liable as well as the Sheriff, if the  
Sheriff is of an action against the former, seems  
to discharge the Sheriff.

If after an action brought against the Sheriff for  
an escape the plaintiff should be obliged to find —  
the defendant is liable the Sheriff is discharged.  
Because he is not bound to find out the cause of the  
escape which by reason has become a matter.  
The Sheriff cannot find in case.

But if after judgment a return is made the Sheriff  
the plaintiff should recover the escape is recovered, the  
judgment against the Sheriff stands. But if the return  
is made when it is now ascertained that the Sheriff had no  
right of reason against the defendant? I suppose  
he will be relieved from the execution by an order <sup>of the Court</sup>  
from the Court.

Edw. H. H. H.

If the Sheriff makes a false return he is liable for  
it in an action on the case in favor of the party  
aggrieved. If the Sheriff an under officer should be  
liable severally when it was not actually made the





If the J.P. however, can show actual damage to  
 any person amount that amount will be given against  
 the County. As if the person escaping was of ability to  
 pay at the time of the escape, & by means of the escape  
 evades his liability he remains answerable with all his effects,  
 the County are responsible for the debt.

In case of an escape thro' the indifference of the  
 jail, the Sheriff is liable as well as the county, provided  
 there is some negligence on his part, or that of the prison.

Miscellaneous Rules

If a auditor voluntarily discharges from account  
 a debtor taken in execution whether committed or not  
 he can never afterwards make him, nor in any way  
 enforce the judgment against him. As the holder of the debt  
 debtor while in custody is considered a satisfaction, &  
 voluntary discharge of his person is equivalent  
 as a discharge of the debt.

4th Nov. 1835.  
 653  
 222.  
 440.  
 123.  
 337

But though the discharge of the debt is  
 done here in consequence of a promise by him  
 to pay the debt & that promise is afterwards  
 kept by him the rule is the same. The J.P. cannot  
 avail himself of the discharge in relation to the  
 person or in enforcing the execution. But the  
 J.P. may sue upon the new promise - which was  
 given on good consideration.

In the case last supposed the person is satisfied  
 even tho' the new promise was afterwards made.

2d. 577 some report on night watches.

2d. 578. This is a home in view to the gift in an execution  
condition in execution in execution the person of  
one once taken in execution I understand as the gift  
that has been used, because the gift of being some  
the debt is a certain law - and it is given with condition  
to expect a public in person. Such a bond has  
been determined by our Sup<sup>ts</sup> to be good. But it  
is an unquestionable separation from the Sup<sup>ts</sup> law.

2d. 579. The rule is that one taken in execution a release of  
one of them by gift is a release of the whole debt. The  
Sup<sup>ts</sup> by the condition of a release, the gift of discharge,  
that gift is a release of one against him - & the release being  
a gift of both, the discharge of one must release to the other  
of both.

The rule is that if the joint debtors are taken, &  
a release of one of them is given - I suppose however, it  
makes no difference whether the joint debtors were  
joint or joint & several if one debtor is released  
against both. There can be no such thing as a release  
of one of them.

2d. 580. It is now generally determined in Eng<sup>l</sup> that if a debt  
is given to one of them in person the debt was for  
ever extinguished on the ground that the gift to one  
extinguished his right to demand the debt to be paid by both. But  
I think there are some cases in which in this rule: so  
that the debt is not extinguished on release of one of them  
if it is not to be paid by both but by one of them by gift.



That if one at two joint debtors thus imprisoned, still, 5 Co. 86.  
The debt to the other was always golden not to be 5 Co. 86. 850.  
be discharged. But now, by Stat. 21. 9. I the power  
of these two rules is abrogated; & on the death of a rule  
left in execution the off may sue out a new writ of  
exce<sup>o</sup> against the estate. This Stat seems to me to be  
in appearance of the Com. Law. The Stat. is declarative  
in its substance. It is declared, approved & made  
in its substance. Stat. 21. 9. 1.  
5 Co. 86. 850.  
Stat. 21. 9. 1.

I heard by a prisoner to the Sheriff concluded that  
the aboves<sup>d</sup> shall remain a true prisoner, is granted  
a bond conditioned that the other shall receive a  
true prisoner till the debt is paid, is also said - Stat. 21. 9. 1.  
if "prisoner & bond" are included, the bond is in 5 Co. 86.  
is wholly void - Stat. 23. H. 6. When any part of the  
an entire contract is declared illegal in Statute the  
whole is void. Therefore if a contract which is ille  
gal a Com. Law is put into the same instrument  
with one which is good - the instrument is and is void  
as to the bond which is bad. The Stat. 9. in 11. 1. says.  
The Stat. Law is a contract. and the Stat. a summary  
statute. The true reason is this: The Stat Law in  
all the cases which have been decided under this rule  
has made void the bond, & made void the Statute.  
The Stat. 9. & Statute have been adopted the principle  
in the common law that an bond is void and void  
the bond & is void for the reason of the Statute.

The full regulations in regard to the  
 full provision in the law to support the mother or child  
 when a woman who has been deserted all her property to the husband  
 § 15. 285. If a man in a divorce action in the first instance is to  
 bear the whole charges of the law means to indicate that he is not in a  
 position to pay in. He is as yet the way to support in con-  
 viction. In the first instance the expenses are to be paid  
 out of the income of that income. If a woman receives from her  
 husband for fees a small sum than is allowed to her, he is  
 liable to debt recovery as to his share of the family estate. The law  
 assumes that the husband is proceeding which is more than fair in case  
 of a divorce a person committed an act of force, to the law, but  
 even so. If however an act of force must bear the burden  
 of his own expenses unless he is admitted to the property, which  
 means that he is not worth it. If he has not it is his duty  
 to pay the costs. He has not fraudulently obtained it, but  
 to take benefit of it hereafter. It is then to be divided and must  
 be paid by him with a week's allowance. But the law is  
 not satisfied by such oath, yet if he has an other & a specific sum  
 § 16. 285. If he remains liable & if he may have a new order to his wife.  
 Before this oath can be administered, the wife must have 4 days no-  
 tice to appear & show cause against it. If the applicant is in prison  
 § 17. 285. but the prison cannot make another writ before the 8th of the  
 1st of August & another notice as to two other persons. If the  
 prisoner is admitted to his first application to the court & may make a  
 petition to two other persons & so, and have leave to receive the whole  
 of his money, the allowance of support to be made. The prisoner about the  
 allowance is furnished with a certificate with the judge as well then as  
 before, in the first instance.



And as I find many are inclined to think  
that it is permitted in the higher sphere, and is a habit  
of the subtle, or subtle, or subtle.

Now, I have seen some in the lower sphere, any person  
inclined to imprisonment, and the competent author-  
ity is imprisoned in the soul of an individual, or society.

For when a person is committed on execution, for  
debt, or otherwise, and is sent to the Sub. Ed., where the  
judgment is made, and execution is made, and is committed  
in that Ed. and the County Ed. in every other case, such  
as the King, & keep in close confinement, and is  
in, from time to time, and then shall not be longer in the  
the same as to the hands of the Sub. Ed. and is not  
Loren is the name of the Ed. he is sent to the Sub. Ed. and  
has escape - I have seen the Sub. Ed. or Sub. Ed. of the Sub. Ed.

Ed. Ed.

4.10.

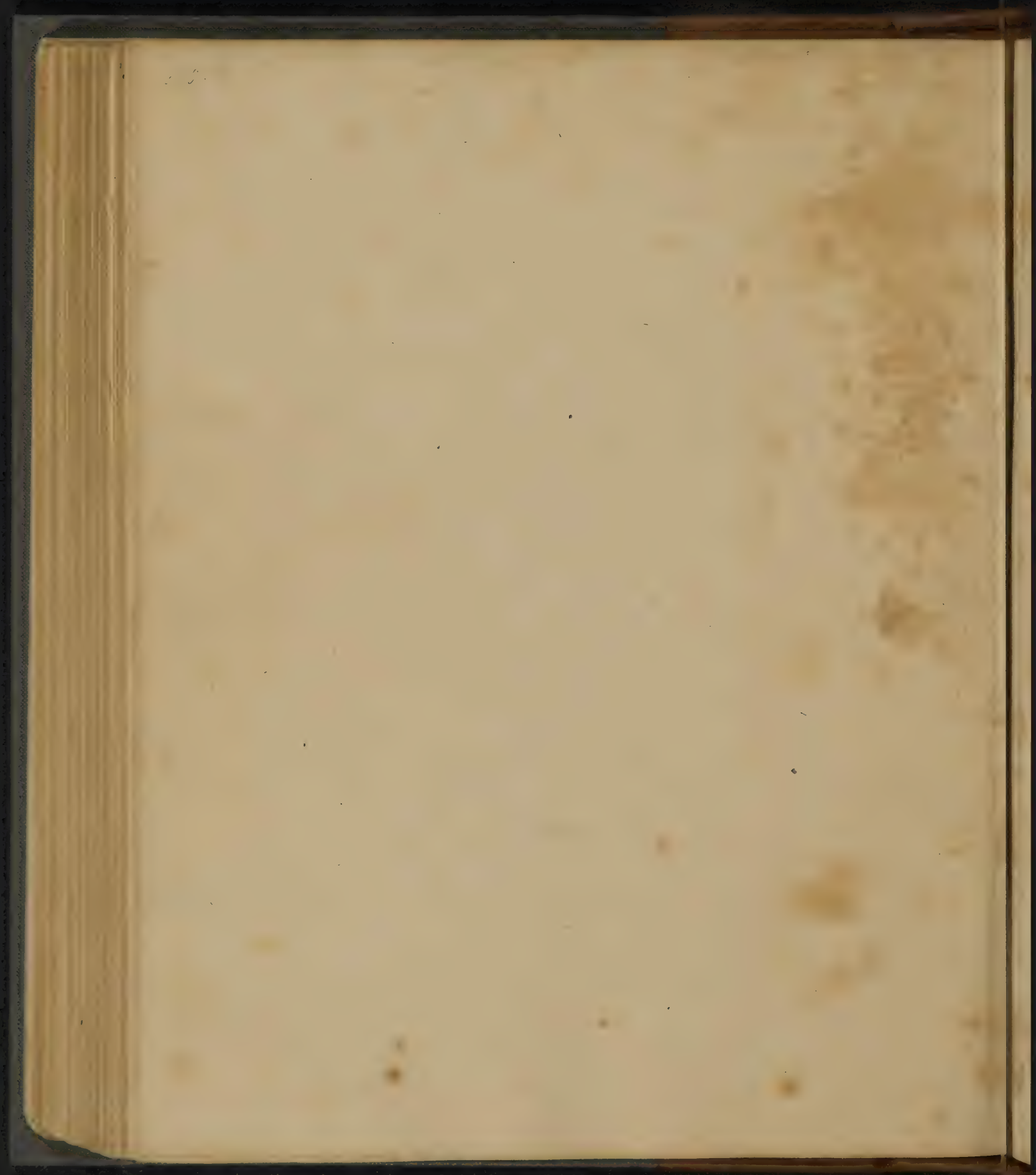








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Contracts, by J. Gould Esquire.

I can't find <sup>any</sup> according to the same definition is an  
account upon which I could claim to do or not to  
do a particular thing. I think this a better definition  
than the one given by Powell.

The term contract includes as well approved  
executed a perfect &c. & as those which are executed  
but unapproved, not being to be performed without  
the assent of the other party. It is a promise  
made by one party to another.





and the master, who is dead.

In the other case, a contract made in an  
unlawful manner to secure a disposal of property  
is to be set aside, even on objection. There is  
no doubt, however, as to the law in this case.

The law does not differ with the agent in this  
in other cases, for the law will not presume a  
deed with an agent in an unlawful manner, when that  
agent is to be set aside, for a fair and honest  
deed.

There is, as to these matters, it appears to  
be a rule of the law, that the law cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed.

It is a rule of the law, that the law cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed.

It is a rule of the law, that the law cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed, and cannot  
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It is a rule of the law, that the law cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed.

It is a rule of the law, that the law cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed, and cannot  
recommend a man to a deed.

There are two modes in which the fact of a person's incapacity may be proved, namely by evidence.

1. If the person is found in the world in such a condition as to bring in strong presumptions against his sanity, the law presumes that all allegations are of the sound mind and body, and it is not sufficient to show the person is in such a condition as to bring in strong presumptions against his sanity, unless an inquiry is taken of the fact of his sanity.

2. If a person is found in such a condition as to bring in strong presumptions against his sanity, by the attorney general or the committee of the House of Commons, in this case the person himself should not be a party to the suit, otherwise he would establish himself as a party in which it was shown that he was a party.

If a person is brought in behalf of a person to Campbell's performance in his power of a contract made with him while insane, he must be a party for the suit is not brought to establish himself as a party and not to show his incapacity in some way but to enforce a contract in his favor, as in the contract.

If a person makes a contract in a state of insanity, and he or his representatives are bound by it as well as any other person, it is a contract made in a state of insanity and not a contract made in a state of sanity. It is at the time of making a contract.

Under the law, a person is bound by contracts of his own making.



as by force or violence. And such acts are not  
avoidable by the law or representation of the party  
more than his himself. No agreement can be made  
with respect to the future.

The idiot is a natural fool. And at under  
standing from his nature. And even one who has  
some understanding, and he can tell his present want  
to tell his own state of the work is not an idiot.

A idiot is one who has had under standing, but  
has lost it from some subsequent cause.

A description of a man is not a contract, unless it is  
incapable to a deed.

There has been a question, if a man is drunk  
and in the contracting party, shall he be liable to his  
contract? The rule seems to be settled that drunken  
and the operation as a temporary insanity is not  
a total ignorance of what is a contract, either in  
law or equity. It does not excuse the commission  
of a crime. This rule is founded on principle of law.  
Between parties in relation to a recovery. The operation is  
not at all except as to this rule.

But if a party draws the other into a state of  
sleep or intoxication then obtains a contract from him  
he will not be held to it. For in the case of Smith and Jones  
not a man is bound to the will of the drunken man as of the other.

2. 18. 129. I have been about under the sun is not  
 itself, as if the person for under is in contrast  
 with it. The person in contrast. The person of under is  
 in the man, an infinitely various. The person will  
 not exist with between them.

But in Ch. if any person in information is passed  
 on a person. This evidence is not. He is not able to relief.  
 I think on the circumstances. That it will be more like  
 at in this side contrast than when both parties  
 were possessed of equal strength of mind, where there  
 is any appearance of fraud, &c.

[The Person of  
 Child.] With regard to the power of infant; I will now  
 remark that contrast by infants except for us  
 depends on the same principle of incapacity  
 to affect the relation with binding. The exception to  
 the rule is founded in necessity. Infants are sup-  
 posed to have no physical power of contracting.

The contrast of power covered are represented strict  
 of void, for want of a moral capacity to affect.  
 [The Person of  
 Some  
 18. 59-6  
 112.] An married woman being an adult is not in some  
 considered as under a physical inability of mind.  
 There are grounds distinct from this moral in-  
 capacity, on which the validity of former contract in  
 a great measure rests - viz the maintenance of the  
 husband & the want of property. These have their con-  
 tinuation in them, & allow nothing for the moral in-  
 capacity of the wife. In this opinion I am not alone.



It is true that in this case the nature of his contract is  
bound by the contract. However it appears to the court  
whether or not the price is fixed; at a Court of Equity  
will compel him to pay a fine. This is in fact  
an old maxim in the law, & as the present law  
the power of performance is agreement & should I will  
complete a performance. When may persons bind others by their contracts.

There are certain cases in which persons may bind  
themselves or others by their contracts. These are  
1. The first of an estate in fee simple, or in fee tail,  
the holder who has the land in fee simple, or in fee tail,  
may bind himself or others by his contract. But if he has  
the land in fee simple, or in fee tail, he may bind himself  
or others by his contract. But if he has the land in fee simple,  
or in fee tail, he may bind himself or others by his contract.  
2. The second of an estate in fee simple, or in fee tail,  
the holder who has the land in fee simple, or in fee tail,  
may bind himself or others by his contract. But if he has  
the land in fee simple, or in fee tail, he may bind himself  
or others by his contract. But if he has the land in fee simple,  
or in fee tail, he may bind himself or others by his contract.  
3. The third of an estate in fee simple, or in fee tail,  
the holder who has the land in fee simple, or in fee tail,  
may bind himself or others by his contract. But if he has  
the land in fee simple, or in fee tail, he may bind himself  
or others by his contract. But if he has the land in fee simple,  
or in fee tail, he may bind himself or others by his contract.

4. The fourth of an estate in fee simple, or in fee tail,  
the holder who has the land in fee simple, or in fee tail,  
may bind himself or others by his contract. But if he has  
the land in fee simple, or in fee tail, he may bind himself  
or others by his contract. But if he has the land in fee simple,  
or in fee tail, he may bind himself or others by his contract.  
5. The fifth of an estate in fee simple, or in fee tail,  
the holder who has the land in fee simple, or in fee tail,  
may bind himself or others by his contract. But if he has  
the land in fee simple, or in fee tail, he may bind himself  
or others by his contract. But if he has the land in fee simple,  
or in fee tail, he may bind himself or others by his contract.  
6. The sixth of an estate in fee simple, or in fee tail,  
the holder who has the land in fee simple, or in fee tail,  
may bind himself or others by his contract. But if he has  
the land in fee simple, or in fee tail, he may bind himself  
or others by his contract. But if he has the land in fee simple,  
or in fee tail, he may bind himself or others by his contract.

...sustained ... the ...  
... the ...  
... the ...  
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... the ...



This will is not a contract or affirmation - we have  
no positive contract which the <sup>17th</sup> is not not  
bound to perform. It has contract which were intended <sup>21</sup> to be performed in the spirit of the law - as con-  
tracts of apprenticeship - which are founded on a per-  
sonal confidence reposed in the master.

The above, being very interesting, we had the  
 sheet by accident in a packet under other sheets  
 sent to ~~the~~ and the matter. The two sheets  
 The specimens have been examined under the m  
 of the the & the.

I have of late great reason to believe that  
our efforts have been made. The commission cannot be  
compelled to execute the warrant. We will take the  
whole in right of our own ship, which is prior to  
that of the party claiming under the warrant to an  
equal point. This is a rule in Equity as well as at  
law. But there is distinction taken in the latter  
case. That case will be understood - viz. that if  
the warrant is given to a creditor in the matter  
in Equity - it will be enforced in Equity. That is a  
maxim in Equity we are not ignorant of. It is manifest

2. Vinn. 63.  
2. Vinn. 654.  
1. Pinn. 129.

to be in time it may be to make evidence of the  
operation of the law.

There are the principal cases in which an agent may  
bind his principal as well as the person as upon the evidence  
made making them.

### In what manner agent may be given.

Agent to a contract may be either express or im-  
plied.

An express agent is one agent express given by speaking  
writing, or by gesture. The agent to a contract may  
be either antecedent subsequent, or concurrent to the  
principal act. Thus when a master sends his servant  
to make a contract for him the agent is antecedent.

How himself makes a purchase of goods for the  
principal. In such a case his agent is concurrent for a moment  
with the principal act. If a servant without any  
previous direction contracts for the master & he afterwards  
ratifies it, the contract is made by his agent sub-  
sequent.

Facit agent as well as more loosely. The  
agent may arise in several ways. The first of agent  
is contradictory with a power to give agent. Where there  
is an express agent "expressum facit opus tacitum"

Implied agent is that which the law raises or in-  
fers from some act. 1. One agent may be implied  
from some act, from some silence or inaction: as  
when a person makes a contract at the instance of another



mortgage, & does not make mention of his name, he  
 is considered as a party to the mortgage of record. <sup>2. Vern. 571.</sup>  
 The first mortgagee in these cases is not obliged to <sup>1. R. 94. 353.</sup>  
 point out the person or persons if it were necessary to <sup>Vern. 570.</sup>  
 suit to that amount. So if a person in my presence <sup>(Vern. 6.)</sup>  
 makes a contract for me & in my behalf which I <sup>1. R. 94. 353.</sup>  
 continue silent his silence will be construed into <sup>2. Vern. 571.</sup>  
 assent. But it is necessary in these cases, not only <sup>2. Vern. 571.</sup>  
 that the person knows that his rights are affected by <sup>1. R. 94. 353.</sup>  
 the contract, but that his silence should be voluntary. <sup>2. Vern. 571.</sup>  
 If coerced or acted into silence his interest is not af-  
 fected by it.

And it is a general rule that the law will raise  
 a tacit or implied assent or assuance? whenever there  
 is necessity to give effect to some principal contract  
 founded on an express agreement. e.g. If I sell to all  
 the timber growing on his land it is implied that the  
 purchaser has a right of access to take <sup>2. W. 145.</sup>  
 it away. So if the owner of a house lets a particular <sup>2. W. 145.</sup>  
 room in it he holds a grant that the lessee may pay <sup>2. W. 145.</sup>  
 there any rent to the house which is necessary for the  
 enjoyment of it.

And there is one species of tacit assent I allude  
 to all contracts. namely - that it is either in the parties <sup>2. W. 145.</sup>  
 or in the law. If a person in my presence makes a contract <sup>2. W. 145.</sup>  
 with me, and I do not dissent by the law, my silence <sup>2. W. 145.</sup>  
 will be construed into assent. This assent is not implied in words but in fact.

de la Paroisse de St. Jean Baptiste de la Riviere aux Roches. - 3

I have also seen him in London and other I have no doubt  
 he will be as true as credit. He will be sure to see  
 the London <sup>24</sup> Review <sup>25</sup> of the same kind. That the other  
 men make no mistake.

in this in every case of default or non-compliance, the  
right granted. There is a tacit agent as the purchaser  
the purchase can be the contract is approved. The parties in  
more benefited the contract is, and so, in case of  
prevention to agent to it because they receive, sold, for  
the benefit.

It also on the 10th of June at Charlotte there is an  
implied contract or warranty on the words that at  
the time of selling the chattels are true. And if the  
purchaser takes them for want of title, there is no necessity  
of making an express warranty.



What circumstances will invalidate an assent. 422.

In some cases, however, a contract, which is not itself  
the subject of the contract, is a condition precedent to the  
performance of the contract, and is a condition precedent to the  
performance of the contract, and is a condition precedent to the  
performance of the contract. 16th Nov. 1859  
Nov. 1859  
In such cases, the contract is not itself the subject of the  
contract, but it is a condition precedent to the performance of  
the contract, and is a condition precedent to the performance of  
the contract. 16th Nov. 1859  
Nov. 1859

But there is a doubtful point which arises as to  
whether it is equally necessary with the other, a contract  
is made in which he who said the word, it is really a  
contract, the contract is made, for it was made, and  
the subscription of the word being necessary. 16th Nov. 1859  
Nov. 1859  
Illustrated by the case of a compromise between  
two parties, which is said to be in law,  
equity.

But when the word itself is not doubtful, but  
the point entitled is concerned of the extent of it,  
if the word of intention is necessary, he will not  
at the same time be bound by his contract,  
if when a request was made of 1000, he was  
obliged when he was asked for it was 1000. 16th Nov. 1859  
Nov. 1859  
The sufficient 1000 was all that was entitled  
to, whereas the 1000 was not the whole of it,  
and it was not the 1000 that was the whole of it.

Lawrence  
Lawrence  
Nov. 26th  
9. 11th 1961

... in the case where the ...  
... were received in a ...  
... the contract was ...  
... in the case where a ...  
... remains ... in ...  
... the ... increased ...  
... the contract ...  
... a case of a ...  
... a bargain of ...  
... are ...  
... always ...  
... the ...  
... the ...  
... a mistake in law ...

Comp. 17  
25. 6th  
37. 6th

... in ...  
... and that ...  
... the ...  
... is ...  
... it is ...  
... the ...

Comp. 30  
727  
25. 11th  
37. 11th

... in ...  
... the ...  
... to introduce ...  
... as when this ...  
... you are ...  
... 26th

... in which the ...  
... in ...  
... the ...



is not used in the same place — there are  
other cases in which his agent is not then in-  
volved, and there is ground.

The rule of construction is this: If the erroneous  
representation or mistake which had circumstances  
in general which appear to have induced the  
principal, as to the purchase the contract is not  
voidable. The ground on which he supports his  
affidavit to the contract, facts. If it appears to pur-  
chase, and of B. for a mill, and then proves to be  
be no more on the island, a court of equity will  
renew on some other contract as voided.

But on the other hand, if the mistake relates  
to a particular which appears not to have been  
material in the contemplation of the purchase, 1st,  
he is bound by his agent & his relief is in com-  
pensation for the difference in value. In the other  
case, the mistake to the agent's facts: in the other, it  
does not.

But if one is concerned to a purchase, the purchase  
makes it an express declaration that the seller shall  
know contain qualities. The absence of them will ex-  
terminate him — the agent is constitutive in the con-  
dition and not be exempted with.

And the intention of the parties as to their agent  
may be inferred from circumstances. Thus, if one  
sells to another a female slave in the shape of a  
man, the contract will be set aside, on the above reasons.





727.  
I have not thought it worth while to  
write you on the contract immediately being made.  
The nature of the contract does not justify for the  
renter to hold it until at the time of making the  
conveyance. If I sell a horse to B on a con-  
tract that the horse shall be paid for at the end  
of six months, the property is immediately transferred  
to B. I cannot before the expiration of the six months  
sell the horse to another. I had better not do so  
until it is made good in B's picture to make pay-  
ment at the time appointed.

In the same principle one cannot do so, but  
to which he has only an inchoate title to which he is  
to be perfected in future: as, one, to whom a  
contingent remainder is limited, cannot make  
a valid transfer at law - require the contingency  
to happen.

But a lease of a house and is potentially the same  
in more in respect of its contract executed. This is  
expressed at this point, is meant a thing accessory  
to another, actually vested in the person. Thus, A  
may grant to B the profits of his land for three  
years to come, for he is obliged to be the owner  
potentially of the future profits his lands: so it is  
of the future profits of any subject actually vested  
in him at the time. Thus I suppose I may grant  
to B all the wool which shall grow upon my sheep in  
years to come.





The rule is the same with regard to those who are  
 not in a position to be bound by a contract. If a person is a minor, or a  
 lunatic, or a person who is not of sound mind, he is not bound by a contract.  
 and even if he is of sound mind, he is not bound by a contract if he is  
 under a mistake as to the nature of the contract, or if he is under a  
 mistake as to the identity of the other party.

It is also a rule that a contract is not binding on a person if it is  
 against public policy. For example, a contract to sell a person's soul  
 is not binding. The law is also against contracts which are  
 in restraint of trade, or which are in restraint of marriage.

So, no contract can be enforced, nor can an obligation  
 created, by a contract to perform what is either  
 impossible, or what is contrary to public policy, or  
 against the nature of the thing it cannot be per-  
 formed. No thing proposed in a contract is the fruit  
 of it. A contract then to do what cannot be done is  
 altogether void, and it is a maxim that the law  
 never compels a man to do a vain or an impos-  
 sible thing.

For if a man is to make a bargain of land,  
 created with the owner, or to suffer a mortgage, in  
 a case not in being the law cannot be done, and the  
 contract is void.

But the law distinguishes between those things  
 in themselves impossible, and those which are not  
 so, but are impossible to the party contracting.  
 Contracts of the latter kind are binding: as if one con-  
 tracts with an executor, or with a person who is not  
 of sound mind, the contract is binding.

Whether the thing is not in itself impossible, or the consideration  
 the contract is based on, is impossible, for every person knows, that  
 a promise must have a specific performance.  
 In the present case, where the thing contracts for is  
 itself impossible, I am not inclined at the time, to  
 take notice that the contract cannot be performed.  
 But if the thing is not in itself impossible, there is  
 no such inference that the promise does not intend  
 an actual performance. If one agrees to deliver to  
 another 2000 lb of wool on the 1st of January, following the  
 day of the contract, and the wool is not delivered.

Had the promisee been held to his bargain, as he  
 5. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 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A contract is then, not void on the ground that it is impossible, unless it is strictly so. The distinction between near or remote possibility is not recognized in ordinary contracts. Hence a contract is not void if the main contract is not void, even if it is remote, is not impossible. The contract is void, if it is not in equity.

And if one covenants to do a thing not in itself impossible, his being prevented from doing it, even by inevitable accident, does not excuse him. Thus where one covenanted to be at the port of W. in South Carolina, to take in a cargo, on a certain day, & was prevented by a tempest he was held in it. <sup>Bur. 637. Foubt. 366.</sup> on his covenant. The time allowed being long enough for the performance of such a voyage, the contractor in such case takes upon himself the risk, as an insurer against every accident. If the covenant had been to perform a voyage from London to F. C. in one week, no such contract would doubtless have been valid, because the thing was physically impossible. There are cases where a party who has contracted to perform service for a certain sum in a limited time, is prevented by inevitable accident

1. The contract must be lawful. The thing which  
 is to be done must not be prohibited, but morally  
 possible. No one can be bound at law to do an act  
 which the law itself prohibits. An unlawful contract  
 is therefore void. And a contract is void to  
 be against law when the object is to do something  
 which is either unlawful in itself or is an absolute prohibition.  
 1. R. 189. If a contract is made for an act prohibited  
 by the law of nature or to commit a crime, the  
 contract is void. Also, a promise to give a certain  
 sum of money to another, if the money is to be used  
 for an unlawful purpose, is void.

Contracts are also void to be against law when they  
 are for the effect of doing something which the law forbids  
 by the force of nature. It is still forbidden by the law  
 of the land, or municipal law, as against the pro-  
 hibitions the exportation of wool.

And a contract may be contrary to the law  
 of the land, as being repugnant to the public  
 welfare, or against some maxim or principle of  
 law as opposed to some positive law.

As to those contracts which are opposed to the  
 public welfare. Under this rule all contracts, the  
 effect of which is a restriction upon one trading in  
 a particular way are void. The rule is the same,  
 as to all contracts in which one party is to be  
 benefited at the expense of another. Such contracts are void.



with respect to contracts in restraint of trade the  
rule is that they are void if the effect of them is to  
prevent competition upon the exercise of trade, even for  
a limited period.

But an agreement not to exercise a trade in a  
particular place may be lawful & binding. because  
such contract may be useful. A restriction of trade may  
be an. to the public interest. But a con-  
tract of this kind is not always, unless limited  
what I consider to be the rule. The rule is that  
to the sufficiency of the consideration is upon him  
who claims under the contract. The presumption is  
against him.

To make a contract enforceable, it must, within  
these restrictions, it is not necessary that the trade  
which one agrees not to exercise, should be in trade  
by prohibition. The rule so far the broad principle that  
no man ought to prohibit himself from exercising  
an ancient right of employment. If then, a blacksmith  
signed a contract not to make shoes, the contract  
would not be binding.

On the same principle a house or agreement  
for perpetual maintenance is void.

And on the same principle, a contract with  
an alien enemy is void, as being against  
the public welfare. This rule does not extend to al-  
ien enemies who are permitted to remain in the country  
with which they are at war, & are not treated as prisoners.

On the very second, an assurance from the Prof.  
 A. 12546.  
 Sept. 28.  
 6. P. R. 35.  
 1. B. 96.  
 1. A. 475.  
 1. A. 345.

with of an even course is void. It manifests the con-  
 tinuance of the seeing a sure one and a true one  
 least in the vicinity of that commerce. The rule that  
 can hold with an alien commerce is not universal.  
 However held with an alien one is perfect in the law.  
 of Nations. There are instruments by which the party

I. The 17th returned an application at London for property seized  
17th. 18. 563  
was sent to read a petition from a prisoner. The man

Massachusetts.  
1892.

7. Mar. 1794  
Lima.

1200 1/2

12. 1. 1900.



Mutual exchange contracts constitute another class of agreements which are void, as opposed to the public show. 12 G. 76. 12 Ann. 245. 11. Nov. 474. 11. Nov. 474. 11. Nov. 474. 11. Nov. 474.

2d. Contract supported by some possible or probable  
of the law will void without reference to the public well-  
fare. If the consideration of the promise, or the promise  
itself is opposed to any such maxim the contract is  
unlawful & void. Thus a promise, in consideration that  
the promisee would discharge (for instance) a debt due to  
his master, was held to be void, the consideration being  
illegal. So, also, of a valuable consideration, the promise  
to permit an escape, the promise being illegal.  
The contract is void.

And if a promise is made by a minister of justice  
to do some unlawful act in his office, or if a promise  
is made by another to induce him to do some such  
an act, the contract in both cases is void. This in-  
cludes all cases of bribery.

Next I must show the rule that when the considera-  
tion of the consideration is unknown to the promisee  
a contract of violence or fraud is void if it is illegal.  
The proposition intended is correct. but the language  
in which it is expressed is not so. It should be  
that in such a case a contract is void, if it is illegal  
that the contract would be void if it were not so. The  
true rule is this - where the fact which renders the  
consideration unlawful is unknown to the promisee

Gal. 53.

a contract of community founded on it is implied  
in binding them, when a service was rendered  
partially & some the price making the contract con-  
tracted, with an intention, ignorant of the unlaw-  
fulness of the contract, to keep him, on a promise of  
immunity. The witnesses being convicted in fact in  
violation was allowed to remain on the contract.

Pr. 572.

In community. And on the same principle if the  
plaintiff in an execution respects the right to take certain  
goods on the debt, which are a debt and not his, & promises  
to indemnify him, the promise is void. There is a total  
disparagement between a mistake in this kind & a mistake  
in a contract. A law which would not in general permit  
any immunity to a contracting party.

If the case was supposed that one should be bound  
to commit an offence, and knowing that the act was  
unlawful, the contract would certainly be void.

It is contract, the object, which is illegal against  
the course of morality & decency are void. For this reason  
the wages, in Chen v. H. Chen & case, was held to  
be illegal. The wages was upon the day of the trial  
after, & it was held to be void on the principle  
that it could only be proved by the introduction of  
incompetent testimony.

S. P. 697.  
22. 2. 610  
case 29  
719

case 39.  
102. 4.

So also all contract made for any purpose, but  
lose are illegal & of course, void. As held with re-  
spect to a candidate, that the holder would not be  
admitted. Each must operate as a rule.



it, also, is a case that is a mere colour, for as such, is  
unlawful & void.

On the same principle, it has been held that an  
agreement, as to the mode of playing an unlawful game,  
is void: for it tends to promote a transgression of that  
law. But at P. L. a wager, between <sup>1811</sup> 37  
in a case as to the ultimate decision of it would be  
good.

In Case 2 wagers are declared unlawful, by Statute, <sup>Stat. 6</sup>  
Some enter into a wager, whether the word of  
an Act extends far the term to make void gaming  
wagers. There is no doubt that a term has been used  
see Case 1. It is said to be the act of the law. <sup>1811</sup> 40.  
The law is void in all the cases of law. <sup>1811</sup> 40.  
see Case 1.

Section 2 in Case 2 third parties are universally  
included. Thus, where there was an agreement <sup>1811</sup> 40.  
between two parties in the name of a third party, to  
allow them to enforce the contract and the contract  
was held to be void. These cases are void as void <sup>1811</sup> 40.  
both at law & equity & can never be valid. So where  
an agreement settling agreement there is a secret agreement  
used by one of the parties to enforce a part of the  
agreement parties, the contract is void, as being <sup>1811</sup> 40.  
a fraud upon the other party.

On the same principle can a person be paid a penalty <sup>1811</sup> 40.  
at an auction in order to enforce the rule in imposition  
in law.

§ 786. Contracts prohibited by Statute Law are void.  
 (Paw. 126-8.)

In this manner, contracts for the purpose of making  
 from a single interest for many and an act.

§ 787. Since also, an action, in behalf of a bankrupt to  
 § 788. pay money to a creditor for issuing his certificate  
 (Paw. 129) is void, being prohibited by an Act of Stat. Such a con-  
 tract & promise would have been made void at this time  
 as a matter of law & of necessity, viz the other condition.

Contracts are void, where the object of them is the  
 annihilation of some legal duty: as by an undertak-  
 ing not to execute, or not to execute a certain sum — or  
 not to execute any process except in a certain part  
 of his jurisdiction — for it is his duty to execute all pro-  
 cess decreed to him.

§ 789. And a contract which even tends to the annu-  
 (Paw. 126.) ancement of unlawful and or criminal acts are void.  
 Thus if one should give a bond of indemnity to a  
 printer against an action which may be brought  
 against him for publishing libels.

§ 790. In the same principle a contract to indemnify  
 (Paw. 126.) any person for publishing a writ or for publishing a volu-  
 (Paw. 126.) me is void.  
 § 791. And a contract to indemnify any person for  
 (Paw. 126.) committing a crime is void.

§ 792. And also, a contract between two persons, that one of them  
 (Paw. 126.) shall do any criminal act is void.  
 It is an inducement to immorality.

There is a distinction to be taken between bonds for the  
 performance of covenants some of which are lawful & some  
 of which are void by Statute. & when some are lawful & others



and in the same way. In the former case it is said  
that the whole is void, so is said. In the latter case the  
bond is void as to the conditions which are void, & <sup>the whole</sup> <sup>is void</sup>  
and only as to those which are void. It is said that  
the Stat. law is a temporary law and void all: but that  
the common law is a permanent law. But the true rea-  
son of the distinction is to be found in the principle  
of the Statute, under which the cases have been re-  
solved, and not from any difference between the effect of  
a common law prohibition & a Stat. prohibition of the same  
kind. The Stat. in these cases, declares the bond void  
to be void, which in construction means the whole void.

But though an illegal contract creates no right  
yet if it has been executed, in some instances the  
law suffers it to remain - i.e. suffers the parties to re-  
main as they are by refusing to lend it aid to either  
in setting it aside. This is done not because the law  
favours one party more than the other, but because  
it requires the plaintiff to show his interest more  
plainly. On this subject I observe in the  
first place, that where the illegality is such that  
both parties are equally criminal, if the contract has  
been carried into execution, he who has paid money  
on it, cannot recover it back. In particular for  
tor it can still be paid. But on the other hand  
while the contract remains unexecuted he who has  
paid money to procure the execution of the contract  
but will not recover it back.

2. Will. 2. c. 24.  
Stat. 25.7.  
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

as to the execution of a trust in relation to principle  
I enter into no opinion. I think the party who has paid  
money ought to be allowed to recover in both cases, or  
in neither. For in the rule now stated there is a strong

5th 535

incumbrance for the party receiving the money to com-  
mit the act. And in this opinion I am supported by  
the Stat. R. in 7 Conn Rep.

2d R. 535  
1st R. 228  
If money subscribed on an illegal wager, has been paid  
over with the loser's consent, after the wager has been  
decided, it is not recoverable back. The contract is here exe-

5th R. 405  
1st R. 222

cuted. But if money thus subscribed has not been paid and  
either party may recover of the stakeholder the part sub-  
scribed to himself, even tho' the wager is decided. For here  
the contract is executory on one side. The winner  
cannot recover in an action the part deposited by the

5th R. 399  
5th R. 409  
5th R. 399  
5th R. 405  
5th R. 404  
1st R. 297  
3d R. 222

other. Suppose, however, that the stakeholder gives the  
money over to the winner after the wager is decided  
in spite of prohibition to do it by the loser. Can the stake-  
holder be subjected in an action upon his contract  
for the same?

5th R. 405  
2d R. 222  
1st R. 297

Now, should the proceeds of an office be recovered  
by the holder the office is recovered, but not afterwards.  
The rule is the same as in a proceeding for an estate  
for life or years, where, after the death of the tenant,  
the proceeds of the estate are recovered in the life or years  
of the tenant.









A contract which was made with the people or interest  
 of this people is void. This is so it should be a wa-  
 ver in the question whether it was made in the name, this is the  
 usage under B. case. The point is in essence all is to  
 be tried under the public transaction. In a way of  
 the age of a study etc.

Some notes showed that all contracts must be con-  
 sidered of performance. I am not certain. The law  
 is not quite sure even in contracts. I am now  
 to read in the third viz the certificates of debt.

I cannot see whether uncertainty is void. Hence  
 it has been determined that if a promise to deliver <sup>val. 92.7</sup>  
 parts in correspondence. This is in to pay for them <sup>250</sup>  
 in a short time, a promise is void because the <sup>1800.270.</sup>  
 consideration for it is void, for uncertainty. This point <sup>1800.276.</sup>  
 is clear. Some cases appear to me to be very <sup>1800.277.</sup>  
 doubtful. I should suppose that a promise should  
 be taken to deliver immediately. A promise without <sup>1800.278.</sup>  
 appointing a time of payment is not signed, and  
 a promise to perform immediately. The action is  
 void in the promise. I am sure in the case of  
 performance it is void unless it is made.

That of our promise to do a certain act and then, then it  
 is a promise, it is void that the whole time of the  
 promise is void, for performance.

That it is a maxim of law that "Solus enim est, quod  
 potest esse, non recedit" That is certain which can be made  
 in the response to any particular fact, or in a statement.

If I promise to pay the worth of an article, this value is to be ascertained by reference to the market standard.

2nd. 148

3rd. 190

180. 270

180. 56

65

If I promise to pay to B all the moneys which he shall be due to me in a month, this is capable of being ascertained. This falls of the Subject of Contract. I am now to treat of

### The Nature & Kinds of Contracts.

L. 443

All contracts known to our law, are Executed or Executing. A contract is said to be executed when the parties transfer property to each other, together with immediate possession, or with a right of future possession depending upon an event which is certain, without either party being trying the other. Thus if A and B are good friends, & pass for it once the contract is executed — as if A & B exchange houses each retaining possession to the other. The contract is executed under the first branch of the rule. If one promises to convey land, & the other to convey in fee simple, when the deed is delivered, it is a contract executed, under the second branch. So if A makes a loan to B, to commence at the end of the year, the interest is transferred to take effect in possession at a certain period for

1. Nov. 179

179

Thus is a contract executed, under the second branch. So if A makes a loan to B, to commence at the end of the year, the interest is transferred to take effect in possession at a certain period for

Executing Contracts are those which are introductory or preparatory to an actual transfer or enjoyment of property: as if two agree to make an exchange of property next week; or if A promises to make a loan to B, or to pay money to C at a future period, this contract is executing.

1. Nov. 179

179

I have inserted in this promise to transfer. The execution is



and contract there is exorbitant when one party performs  
unilaterally & the other is trusted, as well as when neither  
performs, and each is trusted: as where A lends money  
to B on a promise of repayment at a future time: or where  
A agrees to make a loan to B in future in consideration  
of B's agreeing to pay for it when made.

all contrasts are according to stated; - by prep, 1 Rom 256.  
Constructive, or implied. But constructive can  
mean one sort of species of express contrast.

the division of each into expenditure & revenue, relative to the structure. That is to say, in reference to the small or large amount in which it is raised.

By her conduct is where the parties express their  
will what is to be done.

The construction of the contract is one in explanation of which  
 the law requires a contract defining, from that which the  
 the law requires, that in fact, another word, it is a contract  
 most design, from the law as used, at the expense of  
 present. This is a vital in a case conveying property, of  
 the present title or interest in the subject, and as to  
 a case, I am aware that he has told of a case, in which  
 the result. In fact, it is a contract, in which it  
 is a contract. The contract is more than a contract, in  
 fact, of a property, because the law requires the  
 construction from the words used, and in the case, the  
 law is sufficient for a contract, which is a contract  
 to be implied in some cases, where, the law is.

Feb. 24.

Lang. H.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 84







148 The first of these is the right to have a share  
in the profits of the business. If a company is  
incorporated in a state, the law of that state governs  
that is, the law of the state where the company is  
formed.

The next is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares.

The third is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares. The fourth is the  
right to have a share in the profits of the business.  
This is a right which is not given to the  
shareholders of a company until they have received  
their shares.

The fifth is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares.

The sixth is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares.

The seventh is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares.

The eighth is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares.

The ninth is the right to have a share in the  
profits of the business. This is a right which is  
not given to the shareholders of a company until  
they have received their shares.



It is well known to be with the law. But in a  
certain event it is not so. It is in another case  
the contract is annulled as to the sum. See.

It is well known to be with the law. But in a  
certain event it is not so. It is in another case  
the contract is annulled as to the sum. See.

There are certain conditions in the law which  
examples in which are numerous.

There are certain conditions in the law which  
examples in which are numerous.

1. If an unlawful condition is annexed to an  
executory contract, the contract is void in toto. The  
unlawful condition makes void the whole contract. See 20 B. & C. 105.  
As if a man is bound in a contract, conditional for the  
performance of any unlawful act, as to steal or kill. See 2 B. & C. 344.

The rule is the same if the condition is for the  
non-performance of any legal duty. So also if the condition  
is that a man shall do an unlawful act, or shall not do a  
legal act, the whole contract is void. In all these cases the law  
sees the object, from the quality of the act, and it is  
void as to the whole, to prevent the crime.

But are the other parts of an unlawful con-  
dition annulled to a circumstance or contract. See.





All conditions impossible to the nature of the contract are void. <sup>Co. 576.</sup> <sup>2. Vern. 278.</sup> <sup>1. Mass. 260.</sup> For a paper I in see that the  
 that the people shall not refuse to take the spoils of the land. The condition is in both cases void.  
 But it is the fact that the people had given a time as evidence that it would not refuse to take the spoils. That evidence tends here. For this case not void. <sup>Qu? See</sup> <sup>2. Crim. 9. 529-</sup> <sup>2. Vern. 251.</sup>  
 able the purchase. It is not therefore repugnant to the nature of his estate. <sup>Cont'd</sup> <sup>Just. 120.</sup> <sup>2. Vern. 237.</sup> <sup>Proc. Ch. 28.</sup>

Conditions may be either possible or impossible of performance.

A possible condition needs no explanation.

But with regard to impossible conditions, it is necessary to consider them under a two-fold view. 1. Such as are impossible at the time of making the contract. 2. Such as the possible at the time, afterwards become impossible.

1. If a condition possible at the time of making it, but afterwards becoming impossible by act of God, or of the King, is annexed to a contract, executed the contract is not avoided, by non-fulfillment of the condition. The rule is the same, if the impossibility arises from the act of the party granting the interest. Thus, if I make a grant to B. conditionally that he shall in a certain time or to L. on the 1st of Jan. 1800. If he dies within the time, the paper is void. <sup>Co. 576.</sup> <sup>2. Vern. 278.</sup> <sup>1. Mass. 260.</sup>  
 The condition is impossible by act of God. The contract is absolute. <sup>1. Mass. 846.</sup>







560.29.1

1845  
3. 1845  
6. 1845

being executed as in reference to do that act,  
 I remain in question whether the obligation is created or  
 not. Now again in respect to that an obligation must  
 bear the test of being an obligation. The first  
 with me is in connection with that he is not bound to  
 pay it within a month - To decide whether the work  
 is new work - if not refused to determine, it appears  
 to me that the obligation must be reduced to the obligation  
 only to maintain a house. In the case in 1845, the  
 incumbrances were not to be held for a long time, and  
 up certain persons would not like that they were paid  
 by hand - They became refused to continue the 18  
 of 1845, saying that the incumbrances were not liable, and  
 the ground of a condition precedent.

If a thing is contracted in the performance of  
 one of the things in this alternative is one of them  
 becomes impossible according to the obligation, the  
 obligation is extinguished. In a case of this kind  
 to see the thing which has become impossible, and in  
 the whole thing in the same condition, as if it had

560.22.

1845.26.

1845.27.

1845.28.

1845.29.

were the rules there to be performed in a case  
 case this has been decided to be wrong - that the  
 obligation is bound to perform the other alternative, un-  
 less the thing becomes impossible in the 1845, at the ob-  
 ligation.

If a condition becomes impossible in the  
 act of 1845, in the law, the obligation is still bound to  
 perform what remains possible.



As if A. were to make a lease for 40 years, & then  
 a. b. prohibited such lease for a longer term. Then  
 20 years. The fact of condition is possible at the  
 time of making the lease but becoming afterwards  
 impossible.

2. H. L. 21.  
 2. H. L. 21.  
 2. H. L. 21.  
 2. H. L. 21.  
 2. H. L. 21.  
 2. H. L. 21.

2. Conditions impossible at the time of making  
 the contract. If a condition is impossible at  
 the time so, its operation depends upon its being  
 subsequent or precedent.

A precedent condition is one which must be  
 performed before the right depending on it can  
 vest.

A subsequent condition is one by which a right  
 already vested is to be defeated.

If a precedent condition is impossible at the  
 time of making the contract, the right which is  
 the subject of the contract, can never vest, or take  
 effect; for no right passes, till the condition is per-  
 formed. As if A. were to convey to B. his house  
 at the end of one week, provided B. will, within that  
 time, perform a voyage to London, & back. This con-  
 dition never can be performed, for the condition is impossible;  
 the contract is, then, void & of no effect. The rule must  
 nevertheless be the same, if the condition precedent is impos-  
 sible at the time of afterwards becoming impossible. If  
 a precedent condition is impossible, the contract is void.

2. H. L. 21.  
 2. H. L. 21.  
 2. H. L. 21.

in the case of a contract, the obligation is not  
informed of the condition of the contract, it  
is not a condition.

But if a condition is made, at the time  
of making the contract, it is not a condition at all, in  
the contract is made as unconditional. Thus if  
I make a contract to B conditional to be paid, if  
B will not go to Rome, in 30 days, the estate is not  
in B. The debt would be the same, if the con-  
dition was unconditional. If I make a contract to  
be paid on the non-performance of a thing impossible,  
is considered as a simple debt, for the payment of it  
is not a condition, as the payment is not. The right  
in these cases stands unaffected, as in, impossible condition  
cannot affect it.

In the case of impossible condition of the impossible  
condition is inconsistent with the nature of the debt, it  
is not impossible condition, they were of obligation,  
the whole obligation is void. There is no condition.  
But you present as in the last case to create the liability.  
This is in the nature of condition, impossible  
condition, which enters into the composition of the con-  
tract.

*End of the*



Contract required to be in writing by the Stat. of Frauds.

Can not now be considered the common law doctrine.

relation between simple contract & specialty:

There is a distinction between written & unwritten contracts, as decided by the Stat. of Frauds & 20th Geo. 2. which I am now to treat. This Stat. has produced a great number among the most interesting & important in the law of contract.

The Stat. of Frauds & 20th Geo. 2. is contained in 28 Geo. 2. c. 13. & it extends to the same subject, is substantially a repeal of Stat. of Geo. 2. c. 13.

Known the Stat. of Frauds then are in the law of contract. which will support us well in law & equity, unless the argument is made with an unnecessary view of it is in writing & is not in the party to be enforced as his authorized agent. Our Stat. involves but one of these things.

The first part of a contract within the Stat. is made promise by an executed contract to perform in the next of the contract, & next of his contract. Then a promise not in writing, made not in the eyes of the law in private capacity.

2<sup>d</sup> The Stat. of Frauds makes by law to enforce for the stat, contract, & contract of another.

3<sup>d</sup> The Stat. of Frauds makes by law to enforce for the stat, contract, & contract of another.

4<sup>th</sup> The Stat. of Frauds makes by law to enforce for the stat, contract, & contract of another.





**I.** I have been in a great deal of trouble and

in great distress of mind and body since the death of my wife.

With respect to this matter, I have been in great distress of mind

and of body since the death of my wife.

With respect to this matter, I have been in great distress of mind

and of body since the death of my wife.

With respect to this matter, I have been in great distress of mind

and of body since the death of my wife.

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effect of the Statute is not to make the promise  
 at all void but in all cases where the promise is in  
 writing, and in those cases only where before the  
 Stat. he would have been liable on a formal promise.  
 If then he makes a promise in writing under  
 such circumstances as would not have subjected  
 him on a formal promise at C. Law he is not now  
 liable. The object of the Stat. was merely to introduce a new  
 rule of evidence.

Further to make the exec<sup>r</sup> liable on his promise, this  
 written, there must have been an intention which  
 binds him as executor: otherwise there can be no considera-  
 tion for the promise. If the exec<sup>r</sup> of A. makes a prom-  
 ise in writing to pay a debt of B. then being nothing  
 more in the case this promise will not bind him.

But if the exec<sup>r</sup> of A. being liable on a debt, promises  
 in writing to pay the debt of A. this is a <sup>Res. on the</sup> <sup>206. n.</sup> <sup>Q. Sec. 196</sup> <sup>on 196</sup> <sup>extra</sup> <sup>75R 350 n.</sup> <sup>Ramus Hug.</sup>  
 consideration, to support the promise & will make the  
 exec<sup>r</sup> liable in his own capacity. He could not be liable  
 as exec<sup>r</sup> unless he had apptd. 2u. For p<sup>th</sup> might had judgm<sup>t</sup> quashed.

It has rather been determined that the consideration  
 must appear in the writing: otherwise it does not bind  
 the exec<sup>r</sup>. This rule will hold with respect to all  
 the other kinds of contracts within this Statute. This de-  
 cision was upon the first interpretation of the  
 Statute of the Statute. It seems however to be  
 a very reasonable rule.





II. The second step in ascertaining the liability of the promisor is to see whether the promise is made for the debt of another. This is a question of fact, and is to be determined by the evidence. It is a question of fact, and is to be determined by the evidence. It is a question of fact, and is to be determined by the evidence.

What is a promise to answer for the debt of another? It is a promise to answer for the debt of another, or to answer for the debt of another, or to answer for the debt of another.

This, general rule, must be applied to the facts of each case. — 2. What is a promise to answer for the debt of another? It is a promise to answer for the debt of another, or to answer for the debt of another, or to answer for the debt of another. 1. This. 506. 2. This. 506. 3. This. 506.

If it is collateral, it is not binding unless in writing, should be. In other words, what is called an original promise. The promise to answer for the debt of another is not a promise to answer for the debt of another, or to answer for the debt of another, or to answer for the debt of another. When it is ascertained what promises are original, and what collateral, the law is determined.

A promise is said to be original in three classes of cases — 1. Where the promise for whose benefit, the promise is made, is not liable at all to the promisee.

2. A promise is original, when the liability of the party for whose benefit it is made, is extinguished in consideration of the promise made, at the time of its being made. For from that moment, there is no debt of that person to be paid. This rule has been questioned: but the majority of judges have decided in favor of it.

1848. 3. 2<sup>nd</sup> The promise is unilateral when there is a new  
 5. 1848. 3. 2<sup>nd</sup> The promise is unilateral when there is a new  
 action & remedy to the promisee. Some words in  
 this rule is emphatic.

1. 1848. 3. 2<sup>nd</sup> The promise is unilateral when there is a new  
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5. 1848. 3. 2<sup>nd</sup> The promise is unilateral when there is a new  
 action & remedy to the promisee. Some words in  
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6. 1848. 3. 2<sup>nd</sup> The promise is unilateral when there is a new  
 action & remedy to the promisee. Some words in  
 this rule is emphatic.



The intent of the parties clearly is that the promise  
is the actual subject. Of course this promise is in  
view of his liability & intended to furnish an addi-  
tional remedy; & is therefore a promise in itself for  
the sake of another. A person who was about to leave  
home, said to a baker "Supply my mother in law  
with bread & I will see you paid" & the promise was  
given to be collateral, because, it is said, the inten-  
tion is that the mother in law should be the creditor.

It may be the true intention of the intention that  
was intended. But I doubt whether it is.

Lord Mansfield once said during the time of his  
trial, in *L. v. Gresham*, that it has since been ascertained  
that when the intention is to be the money - there is a distinction  
to be made. "I will see you paid" it is not within the rule.

It is to be understood from the expression "I will  
see you paid" that the third person, or the promisee  
is to be the principal creditor?

In the last case on this subject the Court said that  
where the promise was in this form. This was at all  
by the intent of the intention from all the circumstances  
of the case & the situation of the parties. This would  
be to indicate a inclination towards the rule, & Lord  
Mansfield.

When A. applied to B. & requested him to furnish  
him with goods, B. said "If you would furnish me, I  
know you will see you paid the promise was given.

de collection. Accordingly this was a correct decision  
22 R. 82. The principle that the promise was in aid of the  
24 R. 100. validity. So again, a promise has no effect in  
collateral of your letting a horse to J. P. to shall  
25 R. 100. not be a collateral promise within the Stat. It is an  
undoubtedly an essential part of the transaction for his support  
and it is a collateral rule that a promise, that a  
third person shall do an act, for not doing which  
he will be liable in damages, is collateral as in the  
last instance. But if the third person were not  
liable, he would be not within the act, the prom-  
ise is collateral or not within the Stat. Ex. 100  
100 R. 100. promises to show sufficient consideration that I shall  
100 R. 200. give a sum of money, or if not that I will have  
it to release him from being bound to the undertaking  
the promise is collateral. Because I was not in  
any sense bound by the transaction nor liable  
to it.

As to make a promise collateral it seems clear  
that the party for whose benefit the promise  
is made, should be a person liable at the time  
when the promise is made. So I have seen I. L. B.  
promise to pay it, the promise is collateral.

If a promise is made by one person, for another  
to be made liable the promise is not within the Stat. It  
is not the promise to pay the debt of another, and  
one shall not be a collateral promise, the gift to pay the debt, in



is said, but in fact.

In considering now we can see the object of the  
Treaty, I have to observe that when the provisions  
relating to the acquisition of the territory, the same  
have been of immediate effect, in the proper  
action - as in a grant, and have been made, in the

But when the provision is collateral, the object is not  
plain in the execution of the act. In the  
classification must be official. In the former  
case the provision is the principal object - in the  
latter it is in the situation of a mere incident.

2<sup>nd</sup> When the third provision relates to the  
fact the provision is made 'is contained in the pro-  
vision, it is official as well within the act. This will  
make a provision to the fact in consideration of the  
provision, as well as in the act. It will then  
be official. This is an official provision. The  
provision is not in the act, but it is official.

provision in this case, is not in the act of the  
act. It is official as well as in the act.

For the act is official as well as in the act. It  
will then be official as well as in the act. It  
will then be official as well as in the act. It  
will then be official as well as in the act. It

shall provision to the act in consideration  
of the act of the act. It will then be official as  
well as in the act. It will then be official as  
well as in the act. It will then be official as  
well as in the act. It will then be official as

When the mortgage is the result of the sale of another  
his promise to pay the amount is clearly an assumed  
obligation & not within the Statute. And this is not the  
promise of a person who is not a party, and of paying or con-  
sideration of the transfer of it to me.

William  
Lehr.

It is necessary to consider where there is a  
correlation and in fact of a new contract there  
remain standing to the mortgage. This was pre-  
sented to the court in the case of William & John  
vs. the United States of America, the court  
to determine the issue. It is to whom the money has  
been previously applied. Knowing that the land  
claim was predominant to his promise  
if the court had made it clear, to pay the  
court it was shown that this was an actual

2. 75. 26.

Feb. 25.

2<sup>d</sup> Ray 759.

2 p. 11

267p. R. 86.

[illegible]



Miscellaneous rules under this branch of the Statute.

469

A promise to pay is certain even in consideration  
of the promisee's forbearing a credit against him  
for a debt or unpaid. For there is no doubt of it.

It does not appear till decision, whether he is in any  
way liable. Besides this is not a promise to discharge.

The particular debt to which I was liable - as to how  
his liability was given to which he would be subjected.

1 Will. 215

2. H. 204

Rob. 215

233-4.

2. H. 204

The obligation is enforceable in the Stat. in some cases  
as to debt or unpaid - in not paying the debt.

To receive a promise collateral, there must exist  
a debt or duty ascertained or capable of being ascer-  
tained at the time when the promise was made. Other-  
wise it is not a promise to pay the debt or duty of  
another. It is being capable of being ascertained  
is meant that it must be ascertainable by reference  
to some fact or known standard.

But a promise to pay in consideration of the  
promisee's forbearing a credit against him  
for a debt is collateral. For there the debt subsists  
against the third person - no lien is taken away from the  
promisee. There is doubt of consideration enough. But  
it is not what the Statute requires.

2. Will. 99.

3. H. 104

2. H. 204

2. H. 204

And a promise that in consideration of the prom-  
isor's forbearing an action against him  
the promisee will pay the debt - has been held  
in some cases to be within the Stat. For it is still li-  
able to pay the debt. I have doubts of the validity of this.

2. H. 204

2. H. 204

2. H. 204

2. H. 204





of the record is taken that the existence of a confession  
 consideration will take a case out of the Stat. This  
 clause of it is abundantly repeated. For a parol promise  
 in a case law would not be valid without a  
 consideration. So that in this view, the Stat. has  
 effected nothing at all.

7 P. 1150  
 2 Wils. 94.  
 Hob. 202  
 204.  
 7 P. 11. 201.  
 2 Sess. 454

The written promise to pay the debt of another is  
 however not, is invalidated by the promisor's want  
 of forbearance to the debtor. This is a rule of our  
 law, & is abundantly covered over. The promisor under  
 takes for the responsibility of the debt according to his li-  
 ability at that time — but not for his responsibility  
 by discharge.

Thirty 397

The object of this Stat. was to prevent the ancient  
 contemplated by it, from being proved by parol tes-  
 timony, when the evidence is negative. It has been  
 determined that a verbal confession in the promisor,  
 superseding the necessity of proof, takes a parol collateral promise out of the Stat.

If in an action upon a parol collateral promise  
 the debt is proved as between the parties, his money is  
 paid under the common rule. He will be liable. The  
 necessity of all evidence being excluded, the action  
 may be maintained consistently with the Statute.

Hob. 202  
 204

The Stat. of frauds is not applied to the promisor's debt  
 but merely introduces a new rule of evidence as  
 to the mode of proving it. When therefore a parol promise  
 cannot be proved it is not payment of an indebtedness

in the bill in the contract itself but wants because  
 he will want the proof upon to substantiate it.  
 In the last case, the bill could not recover, the  
 issue was pleaded.

He does not say that such a promise  
 shall be paid - or enforced at all - but only that as  
 such in law or equity can be enforced upon it  
 unless it is in writing.

When according to the distinction already taken,  
 in law, because the promise must be in writing to bind the party,  
 the bill will not  
 touch action if it is still not necessary in enforcement upon it to  
 unless the prom-  
 ise of another accept  
 of him, is aver that it is in writing. It suffices for the bill  
 shown to be legal.

It is now in evidence a promise in writing.

3. Nov. 1899. This rule, perhaps the proposition that the bill of  
 the 2nd. Nov. 1899. is now in evidence a promise in writing.

I do not like the rule as a pleading.

12. Nov. 1899. This rule holds because it is all the way of contract.

2. Nov. 1899. It is not a contract.

It is a declaration binding one of these promises  
 without covering it to be in writing. The rule is now

It is now a declaration binding one of these promises  
 without covering it to be in writing. The rule is now

It is now a contract of this sort is placed in law  
 of another action, the rule must be that it is in  
 writing. because this is required in the principle of



475.  
New 180  
M.L. 49  
And. 279

1847

2. Nov. 22.

Feb 26

Van K. . . 20

Jan 11. 1892. YC.

457





But as a little is not an increment in cam-  
 mune form, or could we are & returned to the other  
 it must appear that the point to which the letter  
 was addressed accepted the time can stand in it &  
 not under that name? at the time of publication  
 the surname. Since when the name was changed in  
 innocently the name mentioned in the letter &  
 the time of the surname the letter is required to  
 express the name.

Publ. 1822  
 2. 1822  
 1821  
 9. 1823  
 2. 1825

The letter written in 1822 was not, within the  
 terms of our agreement which he had before made  
 in point for his principal business, to be in  
 1822? not as such a condition. It is not material  
 here, to know the letter is so addressed, if the address  
 address? can be found in it, to furnish the evidence  
 required in the letter.

3. 4th. 1823  
 1822

I remain, I continued in letter. However we can  
 frequently too small in contrast as to the terms  
 to be enforced. This section was for uncertainty.

Publ. 1822  
 1822

#### IV. Continued in name of the name of surname that I in some cases them.

I have now been to name of I consider  
 we have seen some as shown as to what subject  
 of it. There is no doubt in it that said a  
 more good in some in point in within the  
 St. But with regard to this, cannot be a time

for trees as there has been some doubt. I think  
I to be the better opinion, that the thing seems  
to be so, so it seems from them that the

Feb. 22. contemplation of the same, and not in this. the Stat.

Feb. 22. the same account for the sale of timber trees.

Feb. 25

Feb. 27. a case of a sale of timber trees is not within

Feb. 28

Feb. 28. in this, according to the modern opinion

Feb. 28. 214.

The words contract or sale of land. The Stat. con-  
templates either a sale of land or a contract for the  
sale of land. It has been questioned how far a promise  
to sell for land when sold, was within the Stat. Sec. 8th.  
Some decided that such a promise to sell was not within

Feb. 28

the Stat. the sale was completed before the promise  
was made. The sale of land was not then on the  
subject of the Statute.

The Stat. in case been a piece of land of Sauton-  
shire, on the subject of a land action. By the Stat.  
for all the time of making the contract, to pay  
for any expenses in the support of the Stat.

Feb. 22

Feb. 22

It was a promise within the Statute. It was just  
decided that it was. Since that time, in the case 1810  
in the case of James & Jackson, it was decided that  
it was not within the Stat. The decision was reversed  
in the 28 of James — and given, the main that the  
promises were within the Stat. of J. & P. but as the

Feb. 23

decided that the contract promises in that case were  
not binding and James was — as the promise, meant  
to contract in the Statute, was given.





1. <sup>100</sup> Now, 100. Thus it will give for a definite performance of  
 2. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 3. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 4. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 5. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 6. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 7. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 8. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 9. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own  
 10. <sup>100</sup> Now, 100. the agreement for the gift of land the gift in his own

The first question is the meaning of the above sentence  
 in this case. For the reason is that, when I have  
 said, "I have said" which is certainly an admission  
 of him, viz. that the promise is made to writing in the  
 sentence of the act, it is not within the statute

1. <sup>100</sup> Now, 100. It is clear that if the act, after having said  
 2. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 3. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 4. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 5. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 6. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 7. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 8. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 9. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear  
 10. <sup>100</sup> Now, 100. the agreement was not made upon the act, it is clear

1. <sup>100</sup> Now, 100. But, the principal question still remains, viz.  
 2. <sup>100</sup> Now, 100. whether the act, having complied the formal agreement  
 3. <sup>100</sup> Now, 100. can be compelled to perform it, if he insists upon  
 4. <sup>100</sup> Now, 100. the act, in his own mind. And the answer is, 3. <sup>100</sup> Now, 100.  
 5. <sup>100</sup> Now, 100. says that a that equity will enforce the agreement  
 6. <sup>100</sup> Now, 100. in such case, but the act is not on that for  
 7. <sup>100</sup> Now, 100. enforcing it. In 1 Bl. R. the same rule is laid  
 8. <sup>100</sup> Now, 100. down generally in 17. <sup>100</sup> Now, 100.  
 9. <sup>100</sup> Now, 100. <sup>100</sup> Now, 100. <sup>100</sup> Now, 100. <sup>100</sup> Now, 100.  
 10. <sup>100</sup> Now, 100. <sup>100</sup> Now, 100. <sup>100</sup> Now, 100. <sup>100</sup> Now, 100.

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 of him, viz. that the promise is made to writing in the  
 sentence of the act, it is not within the statute



The paint was sold after which the owner was  
 Mr. L. A. Norton. Later he sold to Mr. B. B. Boone who  
 still in spirit.

There is one particular authority to which it is <sup>not</sup> ~~not~~ necessary to attend particularly. In this case the objection to a will made in a private agreement between the parties themselves — did not in his answer occur, the agreement and the place was obtained. Lord Rushworth stated explicitly however, that he did not in up the main objection, advanced by Lord Hardwicke, but in the same place the particular circumstances of the case — in particular, from the in completeness of the agreement itself. There were any particular heads of an agreement given to an attorney. These are the authorities on both sides of the question & so much that I can see, it still remains unsettled. However, say it seems to be nearly established, that the defendant was not himself in the business to be done.

It seems to be agreed, that a single man under certain circumstances take the seat at the table. But the rule itself, that single men take the seat next to the host seems to me to be unsatisfactory, & it is better that this rule should be, and is, more general, where it does well, in it being the most satisfactory.

*Melospiza melodia* Latr. var. *a.* Bonaparte & G. Cuvier





of the public mind to a degree which seems to me  
to show a sincere and intelligent interest in the  
the cause and of the fact. It is true said to be  
propagated by a very limited audience.

Some light may be shed upon the question upon  
the union with regard to which there is no doubt.  
The S. C. & I. have contrast for the purpose of  
unity at a distance with regard to the matter in the  
union the order of the S. C. & I. always expanded. The  
accordance, the two parties will be carried into effect  
because there is no reason for assuming it, - since the  
the matter is a confidential office of  
the secret. This could not be the fact concerned.  
This was said.

I. It is also a point of view I believe that said  
the in S. C. is a suit between a secret agent -  
secret agent in some respects - as the same person  
the. The fact in the one opinion of the S. C. is  
under a S. C.

It is also to be noted that a point  
secret agent in the line of secret agent in the  
from circumstances in the provinces which there  
is no reason for assuming it is important. Thus, if  
I. makes an absolute secret of the S. C. & I.  
the same time with S. C. an obligation for the con-  
sultation - occasion in the province - some paper -  
also was a secret for the project - but just interest.





I make a special lease to D. for 10 years: and D. with  
 the consent of A. enters upon the land in view  
 expenses in pursuance of. After this, it will be seen  
 held to be lawful. The agreement is a mortgage of A. to D.  
 held to be lawful, under some of the Acts.  
 upon the lease. And in a case of this kind, a bill  
 at Ch. has enforced an agreement, even though the  
 terms of it were not precisely settled in the parties.

The American Paperman of Paris, in possession  
 of a secret or news is a sufficient source of information on  
 the part of the monarch. The monarch himself accepts  
 of the information, is susceptible to report the news, &  
 sends it to the

2. Per 753  
 955.  
 2. 75. 6.  
 4.  
 75. 6.  
 4. 75.  
 75. 6. 75.

17, also, a number of names on the 1st of the 18th. 1847.  
 cancellation of a purchase the final decision? 5 P.M. 527.  
 Dr. Allen, however, is sufficient for the purpose. 3. 11. 2.  
 The point, however, the authorities are greatly 4. 11. 20.  
 at variance. It was clearly a case as a question 1. 11. 22.  
 whether the money should be withdrawn from 1. 11. 25.  
 any other 20th. I suppose the course taken is 1. 11. 26.  
 that the payer of the money may be a perfect 1. 11. 27.  
 success, in some back his money, in a lump sum then 1. 11. 28.  
 have may have himself in the 20th. There is a 1. 11. 29.  
 question, upon which I have not formed a definite 1. 11. 30.  
 opinion - as the authorities now are. The inclination 1. 11. 31.  
 of my opinion is that the amount should be returned 1. 11. 32.

of the parties has accepted of a partial  
 surrender. I think he would be unwilling to  
 perform an imperfect & is entitled to no assen-  
 sence. Besides, it may happen that the party  
 receiving the money is indebted & unable to  
 repay so that the purpose of the money cannot  
 be accomplished in his former situation.

1840. 2d.  
 1840. 3d.  
 1840. 4th.

It is clear that payment of money by  
 way of earnest upon a partial agreement does not  
 take the case out of the Stat. The reason is that it  
 is not an act done in part & performance: but  
 a mere solemnity in making the agreement.

It has been questioned whether supposing the  
 payment of money to be a sufficient part performance  
 the receipt of the money may be proved by parol.  
 But this question cannot be decided the least  
 amount of doubt. The payment of money is a conveyance  
 in itself & not a mere promise. It is no case in which  
 the receipt of the money is not to be proved by parol.

1840. 5th.

In the supposition that payment is a sufficient part  
 performance there is a difficulty in proving that  
 it was not intended to pay the price for the im-  
 munity that was given & written receipt of the pay-  
 ment of money was a partial payment & not a mere  
 loan or note or memorandum of that sort &c. &c.  
 & that the question could then more be made.

1840. 6th.



To take a formal agreement out of the Stat. on the occasion  
of joint performances, the act seems must be such as  
would promote the better observance and the prom-  
ise is performed. Hence if upon a formal agreement  
between A. & B. there is a joint performance on the  
side of A. that does not entitle B. to a share. For he  
must have acted in joint performance.

6 Mr. P.C.  
45  
J. v. J. 54.  
Rob. 138.  
162.

And the act seems must be such as in the opinion  
of the Court would not have been done but with  
a view to joint performance. Every act will not have  
this effect. Thus where a lease is made in performance  
of the bond entered into the lease to take a new lease  
I continued in performance. This can be done as a joint  
contract was added, not to be such a joint performance  
as would entitle him to a share

Bo. Ch. 117.  
Bo. Ch. 361.  
9 Mr. P.C.  
1. Mr. P.C.  
Bo. Ch. 361.  
1. Mr. P.C.  
1. Mr. P.C.  
1. Mr. P.C.

Every performance under a formal agreement is in  
accordance with a joint performance. But any act in  
the nature of a conveyance or a conveyance, generally in  
the nature of a conveyance, the performance is not con-  
sidered as a joint performance. There are no joint contracts  
is stipulated to be done on either side

6 Mr. P.C.  
45  
Bo. Ch. 361.  
1. Mr. P.C.  
1. Mr. P.C.  
1. Mr. P.C.  
1. Mr. P.C.

Moreover is not at all concerned in joint  
performance of a formal agreement in consideration  
of an agreement as between the parties themselves. For  
the terms of such contracts there are none to take  
effect until the marriage. I suppose that countries  
Don then would take every case out of the Statute.

1. Mr. P.C.  
1. Mr. P.C.  
1. Mr. P.C.  
1. Mr. P.C.  
1. Mr. P.C.

On the other hand, a bond contract made on this  
 2 Nov. 373.  
 1 Nov. 297-4. consideration made for a third person, is taken out

309. The Stat. by the mortgage, for a security of the  
 mortgagee takes place in his security. It is more he  
 would commit a fraud on the lender to the mortgagee.

289. 22. 20. 27. It is also shown under upon the estate that is the  
 subject of the mortgage on a security in pursuance of the  
 agreement. It is also shown to be a sufficient bond for  
 payment.

The following principles of law are  
 given, any written agreement respecting an interest  
 in land, or any other subject, may be con-  
 trolled by proving the fraud against it when shown.

34th. 389. is only fraud in the execution of the instrument. The  
 1st. 4. 620.

2d. 203. where an agreement for a mortgage is made  
 3d. 389. having obtained the deed, refused to execute the  
 1st. 4. 180.

whereas the holder was entitled to prove the fraud  
 of mortgage to show that a mortgage was intended.

And it has been generally been decided in cases  
 that a fraud against for the sale of land or any other

subject may be proved, where it is only an inducement  
 2d. 535. to an action for fraud. It is not then proved  
 as a contract to be enforced, but only as a means  
 of obtaining the effect of a fraud.

Also a fraud against respecting an interest  
 in land, or any other subject, may be proved for the purpose of showing  
 a mistake in the execution of an instrument.



It is a measure, by mistake, which should be inserted in a clause  
which he was directed to insert. In equity relief  
will be granted by rectifying the mistake. *Trust. 379.*  
also, suppose it agrees to give \$ 1000. *2. B. R. 379.*  
take 1000 is inserted, relief will be granted in the  
part which I allowed to be paid. This is a com- *2. B. R. 203.*  
mon law rule. *3. B. R. 389.*  
*2. B. R. 376.*

The Court say that to do so, the defendant agreed to  
give the sum of \$1000.00 in a part of the sum. This  
in this case, the sum of \$1000.00 is the sum of money  
he gave in exchange to ascertain the amount  
to be recovered. The action is not brought upon the  
part of the sum — but on the unpaid balance from  
the use & occupation. *8 B. R. 327.*  
*2. B. R. 379.*  
*1. B. R. 376.*  
*1. B. R. 376.*

It is a common law principle that a plaintiff would not lie to recover  
the sum of \$1000.00, though he had waited. The reason  
assigned why a plaintiff would not lie, is not sufficient.  
The law is that wait is a higher remedy. *8 B. R. 157.*  
*2. B. R. 379.*  
*Trust. 379.*  
*2. B. R. 379.*  
*1. B. R. 376.*  
*1. B. R. 376.*  
*1. B. R. 376.*

We have in law no such Statute that of a Co. 2. *4. B. R. 203.*  
but the rule preserved by that, that, the law is not  
limited by any Statute.

This action may be brought where the sum  
of the account is not due to the title of *Trust. 379.*  
the account. For there can be no implied  
act of a sum. *Fact.*

V. Contracts of the 10th Chap are  
 due to be performed within a year  
 from the time of making them. There must be  
 in writing & signed with the party or his agent.

Thus if A. promises to do some act two years  
 hence, that promise is not binding unless within  
 1. P. 276. It is here necessary in Eng. that the clause  
 8 L. 327. "I do not intend to do some act" is contained in  
 a document. I have seen no reason assigned for  
 this. Probably the leading clause was supposed to  
 have made all the promise concerning contracts  
 of that sort which was intended to be made.

Thus the performance of the promise is to take  
 place on a contingent event, which even occurs  
 not so far within a year, the contract is not within  
 1. P. 280. the Stat. Thus if A. promises to pay a certain sum  
 3. P. 276. if when a certain ship returns from India this sum  
 2. P. 276. is not made in writing.  
 This is not within the Stat.

2. P. 276. So, also a promise to pay a sum of money upon  
 1. P. 276. the marriage of B. is not within the Statute. If  
 3. P. 276. A. or some other person made to him promises to  
 1. P. 280. pay, to leave the lender a sum of money he will.  
 This promise is not within the Stat.

2. P. 276. Said to make the contract ultimately binding on  
 3. P. 276. the party. It is not sufficient that the consideration should  
 actually be paid within a year.

The Statute has also to contract, which is then ex-  
 pressed terms are not to be performed within a year.



I had even come to that I was determined in that  
 that when the machine is made upon a continuing  
 & occurring occasion it is said that the  
 fact, if to be performed within a year with the con-  
 sideration is complete. I appeal to B. & says, if you  
 will board me for 5 years, I will pay you 500\$  
 in a year from the time when the consideration comes,  
 this is not true, certainly by any liberal construction, not  
 to be within the Act.

I have now come through with all the reve-  
 al of the contract contemplated by the Act. I  
 will here give some general Rules, applicable  
 to all or to several of them.

The construction of the Act is the same in (W. H. R. 1800-  
 1801) as in all laws. Though the intention can be ascertained  
 1800-1801

The general provision of the Act is that no writ  
 at law or equity shall be maintained unless the  
agreement, or some note or memorandum is in  
 writing.

I find that our writing which is referred to  
 the parties to furnish evidence of the contract is  
 signed by the parties, as is our agreement, it is significantly  
 certain to be within the Act. Hence it is better written  
 to one of the parties by the other containing the terms  
 of the agreement, or a note or memorandum within  
 the Act.

On the same principle, a letter written by one to his

3.9.8.09 same as above. When the terms of an agreement are already  
noted in a note or memorandum of the agreement within  
the meaning of the act.

3.10.8.09 This note or memorandum must sufficiently  
set out the terms of the agreement as it will be void for  
3.11.8.12  
3.12.8.26 in substance.

The words "lawyer" will in the context be read if  
the terms of the agreement are contained in it, or  
it is made certain by reference to other documents, or  
extrinsic facts - but not by reference to the past  
agreement. Thus if I agree to pay B. for books  
3.12.8.30 and I do not pay him. This may be made certain in  
1.12.8.30  
3.12.8.30 reference to that fact. So if an agreement to convey all the  
1.12.8.30 land described in a particular deed.

1.12.8.30 When the writing refers to something in writing if the  
subject is not made sufficiently certain in the writing  
referred to no fact evidence is admissible to make it  
more so.

The agreement must be proved by the facts  
surrounding the terms of the contract is a sufficient  
note or memorandum, or in fact. An advertisement  
is a matter of offer by one person to enter into a con-  
1.12.8.30 tract with another who will accept of the terms pro-  
1.12.8.30 posed. When the offer is accepted, the contract  
is made. Hence an advertisement for goods sold  
1.12.8.30 is a matter of offer and acceptance to the public, because it is  
1.12.8.30 an offer to sell the goods to the public and  
1.12.8.30 the public is bound to him.

This is not a  
fact & intention  
An advertisement  
must be made  
for the public  
and not for  
one person



It is now settled that the communication as well as the  
 the former must appear in the note or memorandum.  
 Indeed, the said document was not sent to the Board of  
 directors for the vote at least at the date of 10<sup>th</sup> Dec.  
 since, under the sanction of the Board. For the record  
 approved is entitled in that sense of the Board

It should be before that no particular form was ne-  
 cessary for the note or memorandum. Hence an in-  
 strument intended for a deed, but failing to operate  
 as such from the omission of some requisite, or  
 some change in the relative situation of the par-  
 ties may still be considered in effect as an agree-  
 ment or as a note or memorandum, or  
 as a deed as such. Thus if a deed is made  
 for the conveyance of land, in good consideration  
 with an intent to defraud it will be considered as  
 an agreement. So if a deed is given to a  
 person who afterwards renounces the gift, it will  
 be considered as an agreement or a memorandum.

Thus hence is the note or memorandum.  
§ 42 Amount to a signing under the Stat. 1 Geo. R. 190.  
 It is established that the name of the party to  
 be named it whether in any part of the instrument.  
 must, it is intended to give it authenticity or a  
 valid signature is in a receipt of the same.  
 since "I. A. B. do promise &c."

But the rule is otherwise since the name in the body  
 of the instrument is not intended to give it authenticity.





the construction of the same with regard  
to the construction of the same is not to be  
applied for both parties because he is not to be the  
agent of both and his opinion has no more value in  
it and never did. There is no discovery of the  
secret of the same. The secret is not  
is not introduced. The construction of the same  
shall be the same. It is not possible in the same  
the construction shall not be a secret in the  
same way in the same.

There are opinions that sales at public auction  
are in no case certain. The St. Mice they being  
public, afford no room for jealousy. These opinions  
are not now considered as new ones.

A name printed may be a supposed signature.  
 Bills of exchange given out in market are very numerous  
 by given out supposed - Sir John Lubbock, Bart. 2nd Bt.  
 as the name is written in no proceeding, it is suf-  
 ficient to bind the party.

And it is not necessary that the authority of an  
 agent, acting for his principal should be in writing.  
 As to credit the rule is otherwise. See Plat. v. Howard.  
 requires only that the express he should be proved

And it is not necessary that the identical contract  
should be issued. If the contract used upon is  
acknowledged by another, that is issued, this latter  
is a good notice of the contract used upon.

2<sup>nd</sup> 6<sup>th</sup> 1870  
 30<sup>th</sup> 1872  
 Nov. 12<sup>th</sup>

This is the term of an agreement. I was stated  
 in a letter from one of the parties to his agent -  
 agent, it was suddenly refused?

There must however be a signing in some of  
 the modes which have been pointed out, as in some  
 1<sup>st</sup> 1870  
 1770  
 minutes made. Hence the same parties of an agree-  
 ment without signing does not constitute a note  
 or memorandum signed.

Proofs of contracts required by the Statute  
 of Wills to be in writing. I have now to speak  
 of the Presumption of Contracts.

(1870)



## Consideration of Contracts.

25

Consideration is of the essence of every contract, according to the definition given of a contract.

Considerations as to value to the C.P. are of two kinds, good & valuable.

A good consideration is such as that of kindred or natural affection between near relatives. Such a consideration in contracts executed is considered as sufficient between the parties, tho' as to creditors or purchasers bona fide, such contracts are generally considered fraudulent & void. A husband's consideration for a wife's contract founded on such a consideration may be enforced in C.P. The same law runs one firm. Thus if one owes \$100 to one's son of money to his son or brother, it will not in C.P. enforce that contract. But in the case of the wife and the husband where the question arises between the representatives of the deceased & the surviving spouse, the contract will in C.P. be enforced. In upon a measuring case between the parties thus situated, it is reasonable, that it should be enforced.

A valuable consideration, consists in satisfaction of debt, or liability, or injury, or loss, or labor, or marriage &c.

Contracts under this rule are divisible into two kinds. Special & Simple contracts. The former provides the law of consideration, it is necessary to the validity of the contract.

to 171. - The present contract is one which is entered into  
2. Feb. 1865.  
29. - concerned in a speciality, the law a good a good  
medium.

I might say that is a one best by far as  
we would not say.

I read San José & in unsealed weather can-  
not find the same as found upon the same  
parting. More exactly speaking, I observe that  
Feb. 29. 99. See in scales written within I is not a constant.  
2. 11. 45. 50.  
7. 11. 95. and more evidence of a local constant. The  
lower riparian show this.

Dec. 27. The Board all written instructions in several sections  
in a few minutes or so, whether sealed or  
unsealed are treated as confidential.

It is clear that an explanatory comment for  
 298. 445.  
 299. 202. found, is not necessary without accompanying data. It  
 299. 447. is museum, location and "ex mus note non inter  
 299. 448. actio."

*Chloroceryle alpestris* Hal's Green Heron in winter.

P. Mus. 1672i not a P. M. with ant circum incision. But that  
P. Mus. 446.  
P. Mus. 71. is a P. M. is exactly not separable. It is a P. M. but  
P. Mus. 883-  
- 342. is a P. M. and has been in into this area from  
2 Nov 2001.  
The effect of negotiable instruments, en carter.

It is clear from all authorities that a B. L. man is  
making a contract the writing does not dispense  
with a consideration That is strikingly in evidence  
Here, a consideration is manifest even at a second view.



27 May 1878  
 1/2 N. 344.  
 1 Percy 574.  
 Plaine. 504.  
 3 Buc. 463.  
 1 Lou. 534  
 2 Bl. 446.  
 275.  
 1. Pav. 230-2.  
 340.

1 Dec. 1858.

1795.  
 1796.  
 1797.





But if in consideration of a promise to give  
any person or thing, I promise to give  
a sum of money. The promise is not binding.

See bottom of  
this page--

The promise is not here the procuring cause of  
the act. Neither does the promise procure any ad-  
vantage to the promisee. So, if I yesterday sold my 742  
shaded me via the fact committed to. May 1<sup>st</sup> 1882  
as to pay him 10<sup>00</sup> in consequence of it. The prom- 808  
ise is not binding for want of consideration. To 2<sup>nd</sup> 741  
if in consideration of a person having made a 805  
contract with me, I promise to, the rule is  
the same.

But though a part of the consideration be past &  
executed yet if a part of it is still subsisting the con-  
sideration is not past. Thus when a wife in exchange  
that the wife, had accepted his bond & has paid  
him and I promise to save him harmless in future  
the promise was held to be void. In the "Hisco-  
cup" case the rest paid were past, yet the wife 2<sup>nd</sup> 741  
was still to continue in possession & still to pay 3<sup>rd</sup> 400  
rent to the wife - This further continuance of con- 808  
sideration a part of the consideration, not past or  
executed.

But the rule that the consideration must ar-  
ise from something advantageous to the prom- 2<sup>nd</sup> 741  
isee or disadvantageous to the promisee is too 804  
narrow: in the rule that a past considera<sup>n</sup> will  
not support a promise is somewhat relaxed in cases.

200.

There is some doubt as to whether a promise is  
made at the time of making the study upon  
the promise. It is where one in conversation that  
another had devised his study, promised to main-  
tain the expense, this promise was held to be  
made. Then there was a 3rd study upon the promise.

1800. 267.

3 Nov. 1672

on 11. 158

17 Nov. 31-1-11

1800. 198

was. For the 1st time it is made the study of  
passed to some other person. But the  
man who had promised the study when  
it was made, was not bound, unless the parent had made  
the promise.

If one in conversation with a person in doubt  
about promises to him the promise made, then the  
promise is made before the promise. The ac-  
tion may be brought on the promise in the  
action.

And a prior moral obligation incumbent  
on the promisee is a sufficient consideration to sup-

1800. 536

1800. 209

22d. 44

1800. 147

1800. 156

1800. 351

1800. 291

1800. 294

port the promise. Hence it is a man promises to  
pay a debt owed by the 1st. limitation, it is consid-  
ered. Is where the promisee father of an illegitimate  
child promises to pay one who had received the child  
the promise was held to be binding.

If consideration the part, well supported a con-  
tract, it is agreed at the acquittal of the promisee.  
For here the contract the individual contract  
with the promisee is made. This is a moral  
action that it is a duty to pay the promisee.

1800. 182



of promise. The promise is binding.

501  
1. Bull. 190.  
2. West. 288.  
3. Id. 96

There has been a diversity of opinion as to the question whether a mere stranger to a contract can be bound by another man's support or action as a contract founded upon it in his name

1. New. 343.  
353.  
2. R. 330.

favor. It is considered that it will acquit him of a trespass, promise to pay to C. 100 y.

1. New. 343.  
353.  
2. R. 330.

Can C. sue A. upon this promise. This has been settled, that a consideration moving from

1. New. 343.  
353.  
2. R. 330.

one person will support a promise to another who is merely related to the former. Thus when in

1. New. 343.  
353.  
2. R. 330.

consideration that I would perform a cure, or

1. New. 343.  
353.  
2. R. 330.

promise was made to him to pay a certain sum to his daughter, she was allowed to maintain an action on it.

On the first motion suggested that there were contrary decisions. The law on this subject has undergone a change: & the rule which formerly pre-

valued in actions of assumpsit has in later times been confined to words in the present. On these, no duty can

be raised to a stranger, which will entitle him to an action. C. by a subrogation of the promise, has made the contract his own.

When forbearance or forbearance is the consideration of a contract it must have two requisites. It must be perfect and as a certain determinate period - & 2<sup>d</sup> it must be of a suit in which

The promisee is chargeable, or at least there is a colorable liability. Thus, a promise to pay or

do in consideration that the plaintiff would abstain from suing, no time being limited to the forbearance and things

But a promise to be perpetual, is not good.

This case falls within the same rule. For if I promise to forbear a debt & say no more, I mean one an hour after — & the consideration thereon amounts to nothing. The

But a promise to pay a debt in consideration of forbearance for a year, or for a reasonable time is good: What is a reasonable time will be judged of by the J<sup>ts</sup> & jury.

The forbearance must be of an action in which the party claimed to be liable is liable, or at least there is a colourable liability. Thus when the bearer of a bill promised to pay a debt due from her deceased son, provided the promisee would forbear to sue her for the debt, the promisee was held not to be liable because there was no colourable liability on her part.

If one is asked an odd question whether in consideration of his promise to pay, he is not bound. The judge said, then was no consideration for the promise.

But a promise in consideration of forbearance is good if there is a colourable ground for the debt forbore. Thus when the executor of an infant promised to pay a debt of his, by which he was presumed not bound in consideration of forbearance to sue her she was held to be bound. For there was a colourable liability on her part to a debt.



In these cases the original course of action is not to be resumed. A contract is not voided of itself by a mistake in the law. If it appears with certainty upon the state of the case that there could be no recovery, the promise would not be void.

Contracts with reference to their considerations may be divided into three kinds:

1. Where what is stipulated on one side is in consideration of performance of what is stipulated on the other. These the considerations are termed reciprocal: & performance by one is a consideration of the other. To his right of recovery against the other: As if A agrees to pay 500 \$ for a horse, the tenure or delivery of the horse is precedent to the promisor's right of recovery. The plff in a recission on account of this consideration must prove performance on his own part.

2. Where performance on both sides is to be concurrent. Here neither party can compel the other to perform, till he has on his part performed or done that which is considered as performance: As where A promises to deliver B, or his load of wheat, on such a day, & B such a price in exchange for it. If a piece of property is apparently, it is sufficient that the party suing, or plff was at the place & ready to perform & that the other was absent.

1. Poth. 97.  
2. 24.  
3. 2. Sal. 95.  
4. Hob. 106.  
5. New R. 240.  
6. 10. Mod. 460.  
7. 5 R. 130.  
8. 1. And. 370.  
9. 2. N. R. 240.  
10. 1. East. 207.  
11. 0. 19.  
12. 327.  
13. 7. R. 125.  
14. 4. R. 701.  
15. 8. R. 560.  
16. 1. R. 303.  
17. 1. East. 203.  
18. 1. R. 125.  
19. 3. R. 125.  
20. 1. R. 125.  
21. 1. R. 125.  
22. 1. R. 125.

According to the terms of the contract the money is to be paid in a sum certain to be ascertained, or which may become due before the act can be performed. *Winds. 320.*  
 a. b. *2 N. R. 240.* The value of the act is not a condition precedent to the right of recovery for the money, as if A promises B that in consideration of his building a house, he will pay B 1000<sup>l</sup> on the next day, if the day has passed B may sue for the money, though the house is not built. If the money was payable upon a condition, which happens before the act stipulated can be performed, then the time of performance on each side is a point of the time, and sufficient, in who first fails is of course liable to an action by the other, tho' the latter has not yet performed.

On the other hand, if the case of *James v. Lee* is to prevail, where the law for recovering the act, performance is a condition precedent. Thus if in consideration of A's building a house in 6 mo. B promises to pay A at the end of the year, performance of the act is a condition precedent to his right of recovery.

3<sup>d</sup> When the promises are independent, or mutual. A contract where the promises are mutual is directly the reverse of those where the considerations are mutual. Promises are said to be mutual when the promise on each side, is the consideration of the promise on the other. The performance is not a condition precedent on either side.



This third class of contract differs from the first in  
this, that there the stipulation on one side was in  
consideration of performance on the other. Here it  
is in consideration of the promise on the other side. <sup>Langd 603</sup>  
Thus if in consideration of B's promise to deliver a horse <sup>Rest. 17</sup>  
I promise to pay a sum of money &c - <sup>214</sup>  
vice versa - The promises are independent - & both <sup>28</sup>  
parties are now performance may have an action <sup>Lee 273</sup>  
at the same time. But even in these cases a C of <sup>Rest. 603</sup>  
Breach will not enforce performance in favor of the <sup>Rest 589</sup>  
party, till he has performed or shown a readiness to  
perform on his part. This is not founded on any  
strictly in the construction of the contract. There  
is no fault of law. The stipulation is strictissimi iuris: but  
the interpretation of a C of Breach is discretionary:  
and it is a maxim in equity that he who seeks  
equity must do equity.

There has been a contrary opinion  
as to the construction of contract, where the stipu-  
lation on one side is in the form of the donor's  
nominative stipulation, as if B. promises to transfer  
stock to A. in six months & A. promises to make  
money & A. promises to pay to make money  
to transferring stock &c. It was formerly held  
that these promises were independent & that the  
later opinion was that the promises are dependent  
& that the party who has not made a performance





The application of a principle is not to be taken  
as a recommendation to support an action. I  
This is the matter in which I am to be concerned  
and not the matter in which I am to be concerned.

But it is not independent of what is  
the substance of the contract made in the  
first place. It is the substance of the contract  
is it can be said to be the substance of the contract  
and that it is the substance of the contract. But this would  
be to say that the substance of the contract is the substance  
of the contract relative to the substance of the contract  
of the contract.

And in the consideration of a contract  
it is not to be said that it is a contract  
in the consideration of it. The former part of  
the rule has been fully considered and decided.

It is not an independent case. I receive a  
contract in consideration of an action and this would  
be the substance of the contract. And I would be the  
first. But if I intend to support an action  
and the contract is not to be considered as  
given and the contract is the first in the con-  
sideration of the contract. The substance of the contract  
is not to be said. But where the contract is in the  
consideration of the contract only the substance of the contract is  
given.

2. R. W. 207.  
3. R. W. 250.  
2. R. W. C. 145.

It is however well settled in the law that a fraud in the consideration of a contract is a fraud in the contract itself. I am of course according to the rule which decides for the plaintiff in this case for the defendant cannot affirm the contract on the circumstances of the transaction. Now in the case of the sale of the land in question, the value of the land was something more than the value of the whole man. According to the rule, the value of the land is the value of the whole man.

But a court of equity can relieve according to the circumstances of the case.

But the court will not be satisfied with a mere statement of the facts. It was formerly held that if a man had sold to B. a piece of land which contained a great quantity of coal, he must receive the value of the goods supposing them to be sold. But this was not. But it is now held that under the rule of the law, the purchaser may have the goods to be sold. But the plaintiff can receive the value of the goods. It has been recently decided by the House of Lords that even when there is an express promise to pay a stipulated price for the goods, the plaintiff is not bound to accept of their unsoundness if the price is not a measure of their value.

1. R. W. 39.  
192-4.  
8. R. W. 152.

Happily the rule is not now laid in cases of simple contract at all. It is called from two or three recent cases.



Our Court in South have held that a total  
pound, even in a specialty in the consideration  
is a good defense at law. But a total pound is  
inconsistent with the whole consideration  
of total consideration. The more recent must be total 1. Hall 58  
to the total of equity. Cases of this kind have re-  
cently occurred in the total consideration which raised  
in this country a few years ago - when millions <sup>brought</sup>  
of acres were sold to which the vendor had no title. <sup>more common</sup> 2. 104 58  
In these cases, it has been held that there can  
be no relief in equity, because the remedy at  
law was adequate. When the pound is partial and  
the party must resort to equity for relief, or bring  
a separate action for the pound.

If the obligation is not in writing, relief may be  
had in equity, though there is an adequate remedy  
at law. For the obligor is not compelled to re-  
sue in equity, till the addressee chooses to en-  
force it, when the witness to the fraud are shown.

500  
Interpretation of Contracts:

The object of all the rules for construing contracts is to ascertain the intention of the parties. And the contract however expressed cannot be construed beyond that intention. The rules of interpretation have no concern with the question whether the contract is binding or not.

When a contract is to be construed to the full extent intended, if the words can be so construed as to effect that intent. Where a trust is created by deed for the purpose of raising money out of the profits of a shop, it is held that the trust carries with it authority to sell the shop itself, if money cannot be raised from the use.

The terms of an agreement are to be explained according to their most obvious and ordinary signification, if possible, consistently with the nature of the transaction. Thus if A. agrees to purchase 20 casks of B. he shall not have the casks after the 1st is drawn off - or, if he agrees to purchase 20 casks of wine, he cannot in the two cases, the usage in B. is different.

Words expressive of quantity are to be understood that the word is used at the place where the contract is made. As where the contract is for a small quantity of a commodity, it is understood that the word is used at the place where the contract is made. As where the contract is for a small quantity of a commodity, it is understood that the word is used at the place where the contract is made.



When a contract is made in the form of a  
 money, it is an obligation to be understood  
 according to their intent, when the money is  
 payable. As it is a contract made for the payment  
 of £100 in New York it is to be paid, at the rate  
 of \$1 to a dollar.

If the language is ambiguous, the inter-  
 pretation may be ascertained from the subject, the  
 effect of different constructions &c. Thus if a bequest  
 is made to a child that he shall quietly enjoy, he  
 shall enjoy his inheritance so far as his power extends  
 in the case of a fee simple. The case of a fee  
 against the tenant of a stranger.

It also may be supposed that a person present  
 in a court may take effect, as if it were in form  
 and structure an instrument of a different structure.  
 A feoffment by one party to another, may be  
 made as a release: so a conveyance by a landlord  
 not to sue his tenant, will be construed as a release.

If a contract is made according to the  
 intention of the parties, the words will be construed  
 according to that intention, the words may receive a dif-  
 ferent construction: Thus when a word is used in a  
 new sense in a particular situation of words, which is not  
 its common meaning, it will be construed according to the  
 new sense, as a construction different from the  
 apparent import.

The circumstances attend a transaction may vary.





After the application of the rule, which have  
been given, the intention remains, the  
contract is to be construed most strongly against  
the party who is bound by it for the words are his.

9 Co. 7  
Plow. 140.  
1st.  
171  
289  
Bond. 197. a.  
167. b.

There is an exception to this rule, where there is  
an ambiguity in the condition of a penal bond.  
There what is ambiguous, is to be construed in fa-  
vor of the obligor. For 1<sup>st</sup> the condition is in-  
tended for his benefit & 2<sup>d</sup> the object of the con-  
dition is to discharge him from a penalty. Such  
the law always regards with jealousy. Hence if  
one is bound in the condition of a penal bond  
for the payment of money at a certain period  
I then see two points in the same upon the  
money is considered to be payable on the first

5 Co. 22.  
23. b.  
104. c. 2.  
1. Plow. 397.  
398.

Under the same exception if one is bound  
to make a sufficient & lawful commencement according  
to the advice of a J. he is not liable to the penalty  
if he makes a commencement according to the advice of a J. M.  
whether sufficient or not, the penalty of the bond  
is void. I must however a J. & equity would  
compell him to make a sufficient commencement tho'  
he is not liable to the penalty of the bond.

5 Co. 23. b.  
Plow. 397.

There is another exception to this rule when  
the application of the rule would occasion an injustice  
to a third person. Thus if ten in tail make  
a lease for life, it is considered to be for his own life.

50. 2. 42. For if the lease were for the life of the life, the  
400. issue in that no necessary reason might be insisted.

Subject to these rules, the words of every con-  
tract are to be construed in the most compacted  
and sense in which they are generally understood.  
400. Thus if a grantor covenants to warrant against  
the claims of all men - it is construed to defend  
the title against the claims of all persons, women  
as well as men.

To also, if one recites in an instrument that  
he is the owner of slaves upon which he makes a bill  
of sale of them all of them will pass.

When local language is used in a contract  
it is regularly to be understood according to  
its local acceptation. If a limitation is made  
to one heir, as long as he shall pay such an  
annual sum, the limitation extends to all his  
heirs successively: for the word heir in law, is  
not a word of description but of limitation.

All contracts are to be explained according  
to the general intent of the parties appearing  
in the whole contract. Therefore, the words be applied  
to particular words in the instrument. The rule  
is that a general intent shall prevail, rather  
than their own particular intent.

The thing stipulated for in a contract is  
not defined or done as the contract requires



The value at the time of performance is regular  
in the rule of damages: it is a contract to sell <sup>24. 81. 2.</sup>  
wheat at a particular time. The party <sup>18. 217</sup>  
suffers by a fluctuation in the market price, and <sup>18. 21</sup>  
himself of the breach of his contract, to make a <sup>24. 456.</sup>  
profit to himself. A contract when wheat is <sup>2. 1010.</sup>  
10 per bushell to deliver or purchase at a certain time,  
at which time wheat has fallen, the party to whom  
it was to be delivered is entitled under to recover to  
that amount.

But there is an exception, where the article  
has risen in value, after the time of performance, <sup>2. East. 211.</sup>  
before the time of trial. In this case the value <sup>4 East. 607.</sup>  
at the time of trial (as the highest value between <sup>2. West. 394.</sup>  
the time when the contract was to have been per- <sup>5 East. 107.</sup>  
formed & the time of trial) will be the rule of damages. <sup>1. New. 499.</sup>

If several bills or instruments are made at the  
same time, between the same parties, and concern <sup>2. 1010.</sup>  
the same subject, they are all to be considered <sup>1. New. 416.</sup>  
as part of the same contract, as much as if  
they were in one instrument.

56.  
Annulment of a contract  
until the terms of a contract have been  
accepted on both sides. The contract is not  
annulment in either case take the local  
intention.

But on the other hand an offer by one party  
J.H. 653 accepted by the other, completes the contract. And  
H. 4. one may rescind the performance on his part  
2.H. 447, may bind the other to his bargain. Thus if I  
say to B. I will sell my house for 1000. If  
B. accepts, I may retract. But on the other  
2.H. 24. hand as soon as B. knows the terms, the  
2.H. 33-4. contract is complete  
2.H. 447.

And if upon such an offer accepted, either  
of party fails to perform or if a future time is fixed for  
2.H. 42. performance, the property is retained. The contract is  
2.H. 363. the contract is transferred to the purchaser. And he has  
2.H. 64. a complete right to recover the consideration  
1.H. 330. at the time appointed.

But if on the offer being accepted nothing  
more is done, that is if no money is paid or  
tender, no earnest given, no delivery made  
2.H. 33. nor any future time of performance appointed & the  
2.H. 363. parties separate, the contract is at an end. The con-  
2.H. 316. tract was to be performed instantly if at all: which  
2.H. 33. cannot be done.

To also, if I agree to sell and to B. provided B.



within a certain time choose to buy them or to  
choose within the time to give them or give notice  
of no election, still it is not binding. For at the  
time of the agreement, there was no election-  
then are to be added in order to bind one party to  
a contract, the obligation must be reciprocal.

By giving notice each may make a new contract.  
For this is founded on the original agreement, in  
which agreement it is not binding.

Before a right of action has occurred on a  
contract, the parties may rescind it by mutual  
expressing their mutual dissent. The reason  
this: The obligation resulting from the agree-  
ment is founded on the mutual assent of the  
parties - This mutual assent is withdrawn be-  
fore either has any claim against the other.

That after a contract even by parol is made  
broken, or becomes discharged by the inter-  
vention of the parties, without a release by deed; or  
unless there is a new agreement substituted for  
the older one, and executed. Then there is no accord  
& satisfaction. Both because there being a right  
commenced, as one of the parties the question  
of satisfaction is a question of fact and not of law.

There is an exception to this rule, in the  
case of an acceptance of a bill of exchange: which  
be discharged by parol, even after a right of action has arisen.  
This seems to be a positive rule of the Law. mens.

A contract may in Equity be waived, as in  
 2 Br. 260 16 long omission on both sides, to execute or to claim  
 2 Br. 260 20  
 1 Br. 413-4 unless it be a promissory abandonment of an estate  
 4 Br. 273  
 11500.

A contract may be waived, as in  
 2 Br. 260 16 long omission on both sides, to execute or to claim  
 2 Br. 260 20  
 1 Br. 413-4 unless it be a promissory abandonment of an estate  
 4 Br. 273  
 11500.

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 11500.

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 2 Br. 260 20  
 1 Br. 413-4 unless it be a promissory abandonment of an estate  
 4 Br. 273  
 11500.



rather, the other party is discharged. *Exemplum 2207-2*  
 in illustration of this rule were given under the head of *206.*  
 of *Constitutions*. And in such a case the party *206.*  
 interested from performing is in the same posi- *216.*  
 tion in regard to his rights against the other *220*  
 party as if he had actually performed. *Exemplum 2208-1*  
 as to the one indebted 10,000 for services *216.*  
 a hour, he afterwards performed them.

On the same principle if A. makes a gift of  
 to B. conditional to be sold, or A. paying such  
 a sum on a certain day, & on the expiration of  
 that day, B. is not at the option so that he  
 could not in such a case till it is received.

If A. binds A. Equity in such case makes him  
 able to perform it as trustee to B. of the money.

A contract may be annulled by a new one. *Exemplum 221*  
 not in a higher nature for the same thing. *Exemplum 221*  
 I A. being indebted to B. in a simple contract, *Exemplum 221*  
 gives B. a bond for the same amount, this bond *Exemplum 221*  
 is a merger of the simple contract. The reason *Exemplum 221*  
 usually advanced is that an artificial one, viz-  
 that it is new. The true reason is this - that  
 the intention of the parties is not to perform a  
 two fold promise, but to substitute a new  
 one. But suppose the bond to secure the sum *Exemplum 221*  
 is made to pay him by a third person, will  
 this operate as a merger?

But a contract of a person is not a contract in  
extinguished by a new one at the same time.

Here the intention of the parties was not to make

1st B. 62. But a new security.

2d B. 57.

3d B. 57.

If B. holds a note of said account B.  
This if B. gives him another note for the same thing

the first is not extinguished.

It is necessary however that this rule should  
be particularly guarded from misconception.

For in the last case the mortgage comes to an

1st B. 426. except the new note or writing is a satisfaction  
1st B. 136. of the old debt it is given & received as such, this  
2d B. 251. is the rule. If it is given & received as such, this  
3d B. 117. is the rule. If it is given & received as such, this  
4th B. 232. is the rule. If it is given & received as such, this  
5th B. 26. is the rule. If it is given & received as such, this  
6th B. 109. is the rule. If it is given & received as such, this

But when a contract of a new nature is in  
view in any of a new security the new security  
is to be considered the new contract & the old  
contract is not extinguished.

The new contract is not kept out of  
view and is recited in the instrument. If it

1st B. 344. appears in the deed & reference will be for the  
2d B. 17. cases. If it does not appear in the deed, the receipt  
3d B. 218. of money by deed - account will be as if it were  
4th B. 223. a receipt upon the simple contract.

A contract in deed cannot even before its extinction  
be dissolved otherwise than by deed. The new security



in it to be misnamed "co. dominus jug. totum."

Grand 244  
2. 1. 80.  
276.

It is said again in the notes that the second  
situation, or even the second is not a  
discharge. This rule is apt to mislead. It is  
a rule in relation to the form of pleading only:  
and it amounts to this, that if to an action  
on the specialty, the def<sup>t</sup> pleads payment &c. at Ex 9254  
the bond his plea is bad - He should plead Ex 192  
payment or account & satisfaction of the money Ex 144  
due upon the bond. 1. 1. 4571

On the same principle, if to an action of  
debt on a broken if the def<sup>t</sup> pleads account &c Ex 48-  
of the cause on it, the plea is not good - Ex 99  
if he pleads account &c of the money, account Ex 46  
upon it. Ex 125

When the right & the obligation created by a con-  
tract unite in the same person, the contract  
is at once discharged forever. - If payment is  
made suspended in some manner, then suppose  
the obligor in a bond becomes executor &c to the  
obligee &c &c, this bond is forever gone. Ex 156  
A court of Equity will consider this bond as  
a good & full payment of the debt &c &c. Ex 244  
Ex 69  
Ex 58  
Ex 58

See Sup<sup>rt</sup> of in Ex 156 a few years ago ac-  
count against the same: since that time the  
bond has been in the hands of the obligor.

If the subject marries the creditor, the contract is

1. New 48<sup>th</sup> generally accepted, in the first rule of the  
40<sup>th</sup> parties. This is a marriage settlement. If agreed, it may be enforced in equity.

If a man or woman is made in connection with  
the marriage of it to be performed after the  
determination of the court, that said person  
shall not be bound by the marriage notwithstanding. Then  
1. New 26<sup>th</sup> was formerly considerable doubt as to the correctness  
2. New 57<sup>th</sup> of this rule. 1. New 48<sup>th</sup> & 50<sup>th</sup> were approved  
3. New 55<sup>th</sup> & 56<sup>th</sup>  
5. New 38<sup>th</sup> & 39<sup>th</sup>.

Contract may be discharged by act of law.  
As by an intervening state. Then if it covers  
1. New 98<sup>th</sup> to act a future act & before the time of performance  
2. New 100<sup>th</sup> it prohibits all acts of that kind the covenant  
3. New 28<sup>th</sup> is discharged

A contract may also be discharged by act of  
law. Before covered to leave all the timber trees  
1. New 28<sup>th</sup> growing? & this one blown down by a tempest. The  
16. 98<sup>th</sup> is discharged by this act of God. For he was not in  
tended to become an insurer. If it fails a loan  
to B. to be returned at an appointed time & the loan

1. New 54<sup>th</sup> The reason time dies without the loan, part  
1. New 44<sup>th</sup> is excused from all liability. A contract to serve  
B. for a year, for a sum to be paid in half years  
by instalments: but after the first instalment & be-  
fore the last. B. dies, his exec<sup>r</sup> is not liable for  
the last. If one is bound in a bond conditioned  
to carry land at a certain day & dies before the day  
the bond is void.



That B. shall be bound to convey. 134. Co. 18

The act of a third person cannot be repudiated  
very & contract: unless the contract provides  
that it shall. A. gives a bond with condition  
that B. shall appear in an action if A. does  
notice, one year, since that if judgment <sup>and</sup> pass <sup>1. Nov. 15.</sup>  
B. I will satisfy it. B. appears though only  
6 days notice was given of judgment against  
him, A. is not bound to satisfy this judgment.

In the other hand, when the contract is, in the  
terms of it to take effect, be varied, or annulled  
by the act of a third person, his act will operate  
upon it as provided for in the agreement. A.  
contracts to buy property at such a price as B.  
shall name, — his price shall bind the parties.  
If he refuses, the contract is at an end.

“Hill”

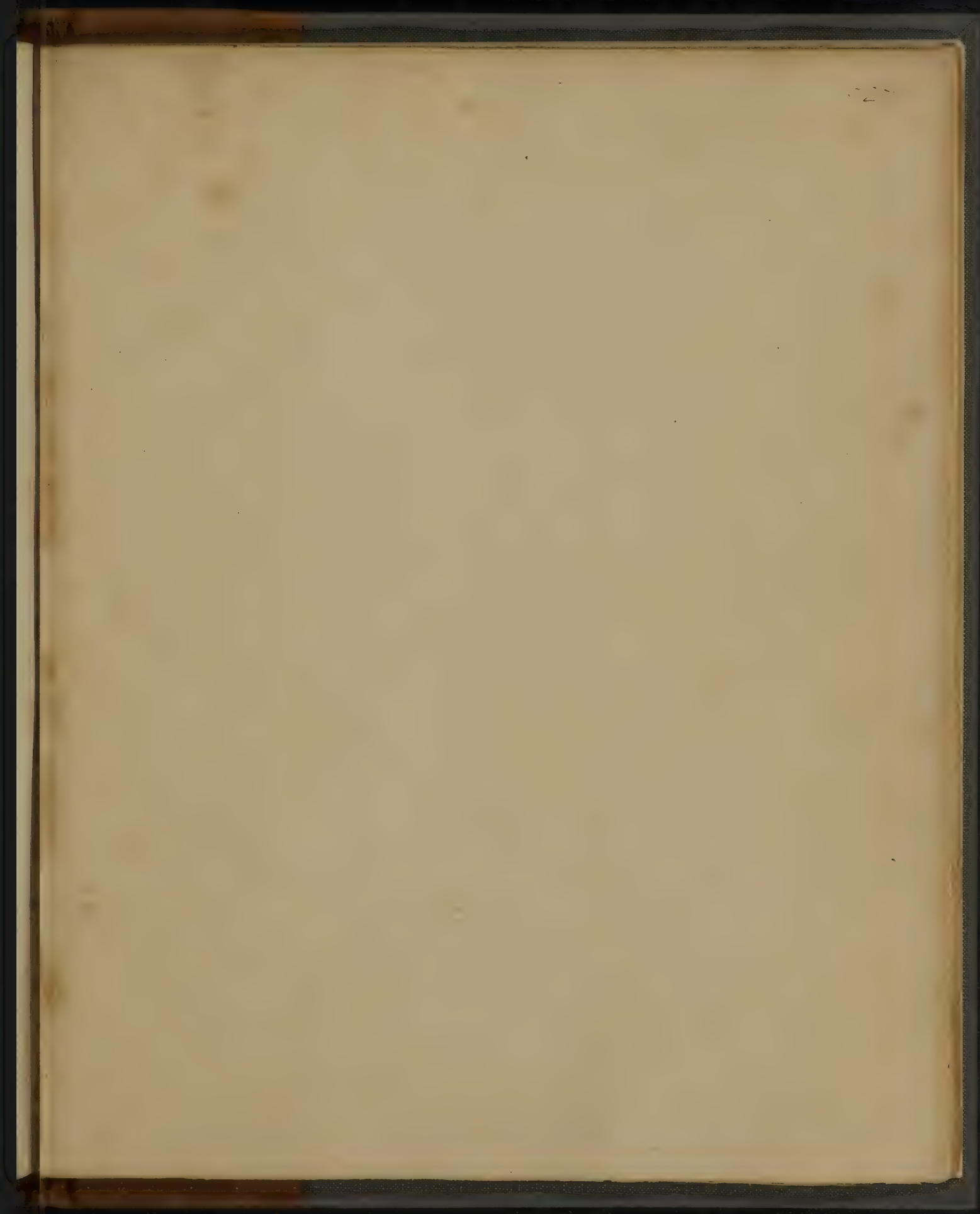




505







526









# Fraudulent Conveyances.

By the Sup. Stat. 13. Cha. & a like Statute in  
other, all conveyances, bonds, deeds, judgments, Rob. 23. n.  
executions, & contracts made to defraud the Stat. 6. 384.  
creditors of the grantor, even as against those Parties.  
who are in liability to be defrauded, & their successors.  
representatives, successors, & assigns utterly void.

There is a proviso, in the English Stat that it shall not  
extend to any conveyance, & to a bond  
pled purchase, having no notice of the fraud. Rob. 4. 5. n.  
Q. Mac. 501.

In our Stat. there is no such proviso.

But Stat. 27<sup>th</sup> Cha. all conveyances & bonds to defraud  
creditors bona fide purchasers are also void; with a  
small exception.

There is no such Statute in Canada.

Both these Statutes are void to be in violation of the Com-  
mon law. That fraud must be proved at court  
trial, & cannot be presumed, &c. Co. 1. 144.  
Rob. 2. 9. n.  
Stat. 2. 384.

These Statutes were loosely added to be in abridgment  
of the Common law, even as to bona fide purchasers  
of land. Secus now ut supra.

Such conveyances are good, as between the par-  
ties. Co. 1. 144.  
Rob. 2. 9. n.  
Stat. 2. 384.

By the fraudulent grantor, since his obli-  
gation for the consideration of the conveyance, cannot  
be assigned? See Mackay Case 1. 1. 3. 1. 1. 1. 1.

But a fraudulent conveyance within the Statute  
is void as against a subsequent purchaser for value. Rob. 16. n.  
Stat. 2. 384.

in the unilateral conveyance even if he had notice of the prior  
 2. Ho. 6. 188.  
 2. Ho. 7. 188. conveyance.

Feb. 233. The rule is the same in Equity: (his is 537)

2. Ho. 7. 188. That the propriety of this rule has been questioned.

2. Ho. 7. 188. It is stated that a conveyance is a  
 2. Ho. 7. 188. first conveyance, a void against subsequent as well as  
 2. Ho. 7. 188. void pro tanto. See Beach & Butler 4 Ho. 1. 188. 188.

And a conveyance upon valuable & adequate con-  
 sideration, will be binding & good, as to residual &  
 if made & received with intent to defraud. So, of a  
judgment.

In some cases, a conveyance under these statutes, the  
fraud imputed to the conveyance is actual - in other  
 cases constructive. (both) But even when actual, it  
 is not necessary that the conveyance should have been  
actually declared. It is sufficient that the conveyance  
 was made with intent to defraud.

The intent may be inferred from various circum-  
 stances (both) - Thus a voluntary conveyance to A,  
 and a subsequent sale to B, are themselves sufficient  
 evidence of fraud in the first conveyance.

A fraudulent conveyance is declared by a sub-  
sequent sale & the latter is itself, afterwards, defeated  
 by non-performance of a condition, yet the first is  
not made good - having been void ab initio.

It was formerly supposed that if a conveyance was  
 made to compound any particular claim of the grantor,



no other of his credit could avail it. Such a con-  
struction having been given to other Statutes in suppres-  
sion of fraud.

But it is now well settled, that if a conveyance  
is made with intent to defraud any one of the credi-  
tor's or creditors, it is void against all of them. The  
tendency of the conveyance is to defeat all.

The debtor being indebted, at the time of the con-  
veyance is a badge of fraud under 13. Stat. But not  
under Stat. 27. Stat.

Voluntary

According to many weighty opinions, the want  
of a valuable consideration is only presumptive evidence  
of fraud, under the Stat. 13. Stat. - not per se,  
fraudulent.

But it has been lately decided that a voluntary con-  
veyance is, as such, fraudulent within the Stat.  
27. Stat. - i.e. any conveyance, not founded on valua-  
ble consideration. See 2 Manning, 9 East 59, 55.

Q. Whether this last rule holds as to conveyances  
under the Stat. 13. Stat.? It seems that it does not.  
(not as to subsequent creditors. see Rob. 395-6. Stat.

For it has been decided, that reasonable family set-  
tlements & advancements to children are good as  
against creditors where the grantor was not in-  
debted at the time, & there are no badges of fraud.  
And this rule has not been judicially annulled.

But is not the case of family settlements to the  
use in which a voluntary conveyance is not per se, fraudu-  
lent as against creditors as well subsequent, as prior.

Valuable consideration

re the bill.

Rob. 135-5. 2d. 505. 110. Sec. 404. 4 Conn. 388. 393. 24. 2 Bl. 297.

Hence, a conveyance in consideration of marriage is good, as against subsequent bona fide purchasers, under the Stat. 2 & 3 Edw.

And such a conveyance is also entitled to the benefit of the Stat. against prior fraudulent conveyances.

But there is a difference, to be observed, in our respect, between marriage, & other valuable considerations.

If a conveyance is made to A, B, & C, for a pecuniary consideration received of A only, they will all be protected.

Rob. 123. 242. 664. 2d. 505. 110. Sec. 404. 4 Conn. 388. 393. 24. 2 Bl. 297. If a conveyance is made to A & to the issue & assigns, a conveyance is made to A & to the issue & assigns, the consideration is in said

in the said of the said, i.e. the original parties to the issue & not the collateral.

This said says that the limitation to collateral is not valid as against bona fide purchasers.

Rob. 123-125. 2d. 505. 110. Sec. 404. 4 Conn. 388. 393. 24. 2 Bl. 297. But 2d. 505. 110. Sec. 404. 4 Conn. 388. 393. 24. 2 Bl. 297. Then the limitation is invalid without doubt.

Rob. 123-125. 2d. 505. 110. Sec. 404. 4 Conn. 388. 393. 24. 2 Bl. 297. But a will made after marriage, not in pursuance of an agreement before marriage, nor upon a new valuable consideration, is considered as voluntary.

Rob. 123-125. 2d. 505. 110. Sec. 404. 4 Conn. 388. 393. 24. 2 Bl. 297. But a will made after marriage, not in pursuance of an agreement before marriage, nor upon a new valuable consideration, is considered as voluntary.



Maryland: Consideration.

Property in settlement? The entire business is in settlement. Rob. 18-191.  
 Since at the time. Some have been supported 18-192.  
 against creditors, i.e. subsequent creditors - vide 2 Atk. 600.  
 2. 18-193.

But such settlement is fraudulent as against Rob. 19-194.  
 subsequent creditors for purchases 213-J.  
 2. 18-195.  
 2. 18-196.  
 2. 18-197.  
 2. 18-198.  
 2. 18-199.  
 2. 18-200.  
 2. 18-201.  
 2. 18-202.  
 2. 18-203.  
 2. 18-204.  
 2. 18-205.  
 2. 18-206.  
 2. 18-207.  
 2. 18-208.  
 2. 18-209.  
 2. 18-210.

Purchases are more favored by the construction of the Stat. 27-211. than creditors are by Stat. 213-214.  
 of Stat. But they are aware that money for the subjects itself, is not on the person in view of the transfer of value, as creditors do.  
 2. 18-215.  
 2. 18-216.  
 2. 18-217.  
 2. 18-218.  
 2. 18-219.  
 2. 18-220.  
 2. 18-221.  
 2. 18-222.  
 2. 18-223.  
 2. 18-224.  
 2. 18-225.  
 2. 18-226.  
 2. 18-227.  
 2. 18-228.  
 2. 18-229.  
 2. 18-230.

Have a fine in Records in a voluntary settlement, 2. 18-231.  
 is affected by Stat. 27-211. see Rob. 215-216 217-218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

But a settlement made by the marriage, in presence of a parent or other person, is not considered as voluntary. It is therefore, not void against creditors & purchasers. \* See, if the settlement varies substantially from the bride's document.  
 Rob. 215-243.  
 2. 18-244.  
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 2. 18-246.  
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 2. 18-299.  
 2. 18-300.

But the document must be void, as far as it is conformable to the original agreement & fraudulent as to the residue. For in such case, the original agreement is in consideration of marriage, which is a valid consideration, & the settlement being in execution of the agreement is supported by the same consideration.  
 Rob. 247.  
 2. 18-281.  
 2. 18-282.  
 2. 18-283.  
 2. 18-284.  
 2. 18-285.  
 2. 18-286.  
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 2. 18-299.  
 2. 18-300.

The rule is the same, even if the document is not in execution of the original agreement, see 1. 18-296 & 2. 18-297.  
 2. 18-296.  
 2. 18-297.  
 2. 18-298.  
 2. 18-299.  
 2. 18-300.

530. Marriage consideration.

But if the settlement is not executed after marriage,  
 Nob. 227. 2. 230-1, 241-2. But rests in articles only: & recourse is had to a Court  
 2. Ver. 309. 309.  
 17th. 622. of 624. to compel a specific performance; that Court will  
 enforce it, only as to a saint volunteers & creditors —  
 not against purchasers & mortgagees without notice.

"Mortgages"

Nob. 231.

2. Ver. 69.

For the interposition of the Court, being discretionary.  
 The equity being equal, that Court will not enforce  
 the purchase & mortgage without notice, of the legal  
 title.

Nob. 1824-5.

187. 191. 227.

2. Ver. 10.

2. Ver. 10.

And a settlement, after marriage, without any a-  
 greement before marriage & without any other consid-  
 eration, than that of providing for children, is support-  
 ed, both at law & in Equity, against subsequent creditors;  
 provided, it is reasonable & unconscionable with any  
 Nob. 396. 47. hadges of fraud.

Nob. 229.

2. Ver. 22.

2. Ver. 22.

But when application is made to a Court of  
 Equity to rectify a settlement made after marriage  
 in pursuance of a prior agreement, that Court will  
 not extend its relief so far as to defeat a purchase  
 for valuable consideration, even without notice —  
 Because, says Abbott, it is not expected to be consistent  
 of the rules of Equity &c.

Nob. 232.

2. Ver. 6246.

Now, when articles made after marriage, in  
 pursuance of an agreement before, require no con-  
 sideration. In such cases Equity will enforce the  
 articles against a purchaser for value, with notice.  
 Here, he had notice of the real equity, not so in  
 the last case.



On the other hand, it is possible, under certain  
 though for valuable consideration, but with notice of  
 a prior voluntary settlement, applicable equity, for  
 that a specific execution, his bill will be dismissed.  
 For he has not the best title, he has no equity.  
 He is at law, when he has a conveyance executed.

ante 532.

A settlement in an agreement after marriage, of it  
 being made in pursuance of a promise made before,  
 is with very slight concomitant facts, sufficient  
 evidence of the prior agreement.

A settlement made after marriage, upon a new  
 valuable consideration is not considered voluntary  
 evidence of the prior agreement. e.g. in consideration of  
 settlement of the wife's property.

To be made in consideration of a portion  
 by the friends of the wife.

Now is it a promise of objection to the settlement,

in such a case, that the stipulated portion has not  
 been paid. The agreement itself to pay is a valuable con-  
 sideration.

If a husband being obliged to settle to a wife's estate  
 to obtain his wife's portion, is required by the wife  
 to make a settlement on her, the settlement made after  
 marriage is not considered a voluntary. It is said  
 against both creditors & purchasers.

The settlement in such case is the same in effect  
 as a settlement to purchase the wife's portion, and is not voluntary.





even in Equity, for a woman in settlement upon her husband, who follows the law. Feb. 24. 652-3. 1831. Ch. 306. 2 Vera. 270.

It would seem then that a settlement in the wife's clothing condition, in consideration of such a settled interest, would be voluntary, as well in Equity, as at Law. Feb. 24. —

In some cases a disposition of property, by a woman to a third person, or to her own use, on the day of marriage, is in Equity, fraudulent & void against the husband. Disposition of the wife's property as husband's. Feb. 348. 350. 1831. Ch. 306. 2 Vera. 270.

Distinctions: 1. If a woman before any acts of marriage reserves an express claim, even on her property, with a clear view to future possible coverture, the husband, having made no settlement upon her, cannot set it aside, even in Equity, tho' he has no notice of it, at the time of the marriage. Then must be fraud. Feb. 348. 350. 1831. Ch. 306. 2 Vera. 270.

2. If a woman, in contemplation of the particular marriage, or in contemplation of the future marriage, afterwards Law. This is fraud, in such cases. Feb. 354-5. 2 Vera. 270. 1831. Ch. 306. 2 Vera. 270.

3. But if L. has made a proper settlement upon her of which a 5th of Equity is to dispose, he is not relieved against the reservation, upon the ground of fraud, inferable from his want of notice. Feb. 259. 1831. Ch. 306. 2 Vera. 270.

4. But, if L. has notice. 5. If a woman, in contemplation of her marriage, makes a settlement for the

Feb. 359. supposed to be children in a prior marriage, the  
 1. 1st. 259. settlement will be valid against the husband, tho' he  
 2. 2d. 259. had no notice of it. Such settlement has been held  
 1. 1st. 260. valid against occasional and frequent persecution.  
 2. 2d. 260. more as to persecution see 9. last 57. 55.

Feb. 359. 8. So, though he has made a settlement on the wife.  
 2. 2d. 3. 72.

4. But if the husband was made a settler  
 which was induced by an intention to encourage  
 of the provision for the wife's children, it is false  
 2. 2d. 3. 72. appearance, studiously taken out, the settlement on  
 2. 2d. 3. 72. the children may, in equity, be set aside, as fraud  
direct upon the husband.

1. 1st. 359. In all these & similar cases, actual fraud occurs  
 1. 1st. 359. 7. enough to vitiate the husband's title.

1. 1st. 359. 5. But if a husband and the wife are married  
 2. 2d. 3. 72. and he has a voluntary conveyance to a stranger, it is  
 1. 1st. 359. void in equity as against the husband.

1. 1st. 359. So a wife has been in some cases restrained in  
 2. 2d. 3. 72. equity from claiming some estate settled upon her in  
 1. 1st. 359. marriage with her husband, prior to the marriage.  
 2. 2d. 3. 72. But in cases of her oppression.



No other than a purchase of a gift of for our  
 noble contribution can be a prior voluntary  
 purchase under the Act of 1800.

"I have been under a great deal of trouble  
 in consideration of natural phenomena  
 not such as a free nature has been  
 to be sure strange — the former not being  
 in order for value, & a voluntary conveyance  
 said as against prairie is representative, & not  
 matter."

<sup>10x</sup>  
Her office <sup>is</sup> pleasant, her valuable assistance -  
and, <sup>in my</sup> her office is no objection to Mr.  
Her skin is somewhat sensitive.

[illegible]







50.  
The same will find to be the same name and  
Feb 27 1877. in the fact it was made in 1877.  
Sib. 40312.  
From 15. The same name, who afterwards sells to the  
same wife, husband: But that if it is otherwise  
the father cannot take the estate of the wife.

This seems to be met in the same case, in  
Feb 28 1877. in the same manner the father's case.  
179.  
"saw" the estate in himself, at the time,  
or rather, when he is a stranger to the estate  
at this time. In Grandfather, after a time - Grand  
father made a voluntary conveyance to his son -  
son & wife, - the father then conveyed the same  
in voluntary conveyance, & that was based on  
1877-78. not yet made the voluntary conveyance. The son  
1877-78. would have been otherwise, if Grandfather had  
made the conveyance, for the father was a stranger  
to the estate at the time, it being given  
to the son & wife.

But if the father makes the subsequent  
Feb 27 1877. conveyance, the son the same, & made the prior  
voluntary conveyance, as the estate in him at the  
time, the subsequent conveyance would be void.  
Feb 27 1877. to one of the estate. In Grandfather's father & son -  
Grandfather made a conveyance to his son;  
after grandfather's death, father conveyed the same  
to son. Father sold to a bona fide purchaser.  
Feb 28 1877. Here the father had the fee simple by descent  
at the time: therefore the case is different.





540  
Not 342-  
Tob 22. of the 2. case in a judgment within the Stat. 27.  
V. 242-  
Not 22. purchase of these means of

Not 342. The will is the same in favor of all in case -  
Not 275-  
Not 22. (in a Statute on occupancy)

Voluntary gift of money or value in Statute.

There is a voluntary gift of money, as of the  
money in the gift is money, as is not money  
in present & money, not to be given before the  
creditor can take it as a condition, his creditor can  
take it, property is gone in case. For the case

Not 223.  
224. case in which he can substantially the gift is the  
Not 228  
resides upon his case.

in case the creditor can take a lien upon  
it, he can take money, as a money project. But if  
it is concerned or case before attachment the  
creditor can take it. The no action for money &  
with it is within the scope.

Not 32. 244.  
Not 228. Both here, in the case, however the case  
is not in all cases, money is not for the purpose of

Not 22. The Statute is a summary remedy provided for  
the purpose of the Stat. 27.

Not 22. And it seems to me opinion that a notice of  
Not 22. gift of money, for the purpose of the money is not  
Not 22. within the Stat. 13. case.

There is the proper remedy in the case in  
the case of the money which is not a gift  
but a loan or a mortgage.





And such a company and the payment of debt, as  
 is made a road to the foreigner's ruin, is so I mean,  
 though the debt are raised in the <sup>land</sup> of America -  
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[illegible]

It is almost certain ex nihilo.





a conveyance of it to the donee, though it is made  
 at the time, cannot be fraudulent as against his  
 creditors. Ex. Husband sells a term in reversion  
 wife as exec. &c. This is not a disposition of his  
 property. See as to purchase money paid.

See, however, if he assigns in trust for himself  
 or to be disposed of as he directs afterwards. For this  
 would give him a considerable interest, if he is  
 to make a voluntary assignment, (which would be a  
 voluntary conveyance of his considerable interest) it must  
 be made to his executors.

### Voluntary assignments.

Wherever one having a real estate  
 of a freehold, or a lease for years, makes a voluntary assign-  
 ment, it is in equity deemed fraudulent, and void  
 as against his creditors. See he cannot make it his own, or assign  
 it to his wife, though he put it into other hands, with  
 a reservation, is considered fraudulent.  
 See, if he assigns in trust.

### Voluntary Trusts.

The validity of voluntary trusts is  
 more frequently tried in Equity than at Law. See the  
 authorities on this subject. See also property in equity.  
 There is no objection in the absence of time for  
 him to delay to assign the estate at law.

But in Equity a voluntary trust is valid, and  
 will be enforced in equity, though it is not given by



de. can. de. monasterio.

It is the duty of the superior to provide for the sustenance of the monks in the monastery, and to see that they are properly educated in the liberal arts and sciences, and that they are employed in some useful occupation.

It is also the duty of the superior to see that the monks are properly clothed, and that they have sufficient food and drink, and that they are properly sheltered from the weather.

The superior is also to see that the monks are properly disciplined, and that they are obedient to the rules of the monastery, and that they are employed in some useful occupation.

It is also the duty of the superior to see that the monks are properly educated in the liberal arts and sciences, and that they are employed in some useful occupation.

The superior is also to see that the monks are properly clothed, and that they have sufficient food and drink, and that they are properly sheltered from the weather.

It is also the duty of the superior to see that the monks are properly disciplined, and that they are obedient to the rules of the monastery, and that they are employed in some useful occupation.

The superior is also to see that the monks are properly educated in the liberal arts and sciences, and that they are employed in some useful occupation.

Position of the ... It is now or other obligation  
 1848. 492. is not in law a ...  
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of a ... in ... is ... to  
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But the ... of ... to ...  
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Principles of Law

555

signed or backed or sealed with some name, or  
initials, especially in the case of a bill, are the following:

1<sup>st</sup> The amount being received - of all the  
practical property.

2<sup>nd</sup> His residence in possession.

3. Being made in secret.

4. Being made in some place against the  
practices: 570.  
649.

5 There being an apparent fault between  
the parties.

6. Suspicion of some: ex. that it is made  
honestly.

7. Made in the absence of the practice.

8. Practice, not being the same.

9. His being involved in debt.

10. Place of reception. 649.

There may, however, be many others, the main  
of which being indicated herein.

All other signs, however, are important in  
some cases, as the case of the same in the  
a fault between the parties. In some cases the  
convergence, though, fraudulently, in the same  
circumstances, it is to be as a real signature in  
which the fault is not merely a mistake.

There is also a sign, however, in the case of a  
note, an absolute one, which is one of the  
signatures. 649.  
649.  
649.  
649.  
649.

Specifically if accompanied with acts of violence  
or injury.

But the possession being inconsistent with the  
purpose of the conveyance & service is that.

But since possession is not absolute or shows  
a bare of power, when the subject of the conveyance  
is a leasehold it is consistent with a leasehold. The  
title of the lease is to be looked in the title  
to the land, in the possession.

Possession of the title deeds is the evidence  
of leasehold, and is evidence of leasehold; as is  
possession of the land, if accompanied with acts of  
violence or injury. Such possession is almost always con-  
clusive evidence of leasehold.

Where land is the subject, however, possession  
by the mortgagor is not evidence of leasehold, & must  
therefore be explained, so as to rebut the presumption.  
The law is, however, otherwise to make possession  
evidence of leasehold in possession of the land.

But it has been held, that possession of deeds  
is evidence of leasehold, when the mortgagee is the owner  
of the land, & is not a tenant. It is a principle of law, that  
possession of deeds is evidence of leasehold, when the mortgagee  
is the owner of the land, & is not a tenant.

But it has been held, that possession of deeds  
is evidence of leasehold, when the mortgagee is the owner  
of the land, & is not a tenant. It is a principle of law, that  
possession of deeds is evidence of leasehold, when the mortgagee  
is the owner of the land, & is not a tenant.





Feb. 57. The rule is the same, if the will pendens is in  
 favor of the donor.

Feb. 58. 9. That a conveyance, after a will has been  
 made against the executor & before satisfaction  
 is made, is deemed void as a matter of course.

That if the executor is indebted in some or other contract,  
 his title is not affected in the matter, even in equity.

Feb. 59. 2. Under Stat. 3. 8th. If a conveyance is made

with the intent to commit a fraud, it then com-  
 mits a fraud the land will be forfeited.

Feb. 60. If the grant is voluntary & the donee is com-  
 mitted to the trust, the influence of fraud will  
 prevail.

Feb. 61. 2. The word "fraud" is not in our Statute.  
How avoided?

Feb. 62. The party taking the benefit of the Statute has a  
 right to treat the fraudulent conveyance as void.  
 Feb. 63. It is as if the conveyance had never been made.  
 Feb. 64. The Statute is considered a creation of property  
 in the trustee's estate.

Thus where to a will of former estate arrives.

Feb. 65. The fraudulent conveyance, he should now revert.

Feb. 66. It being found that he had conveyed to revert.

Feb. 67. The Statute is now void for the kind revert  
 was given against him, upon Stat. 3. 8th.

Feb. 68. It is considered in law, a conveyance that is in

Feb. 69. It is considered in law, a conveyance that is in

Feb. 70. It is considered in law, a conveyance that is in

Feb. 71. It is considered in law, a conveyance that is in











It was in general the same in number and  
the position.



*[Faint handwritten notes]*

441-8

1868

1872

Nov 10  
1882  
1882

1000







566.







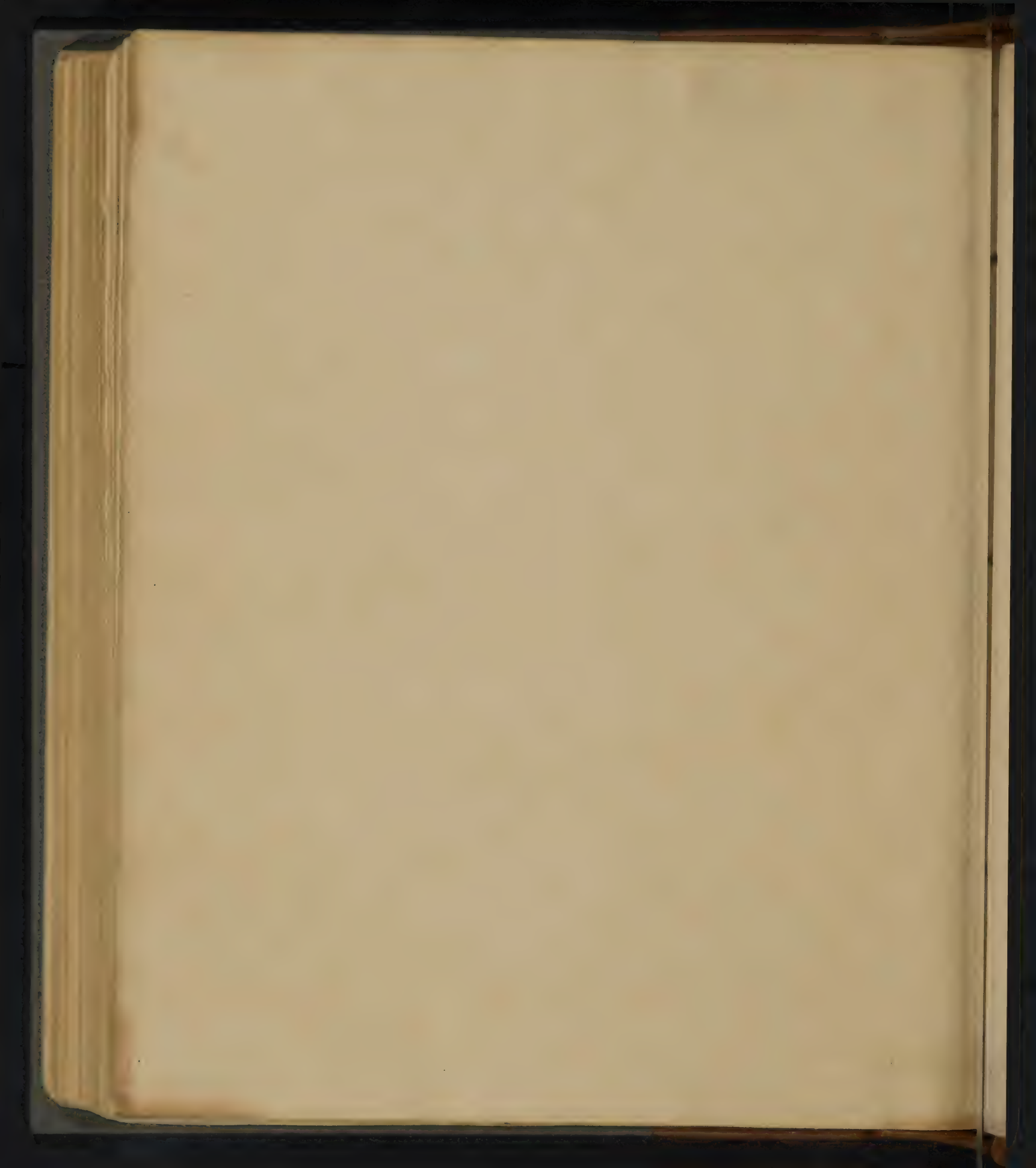




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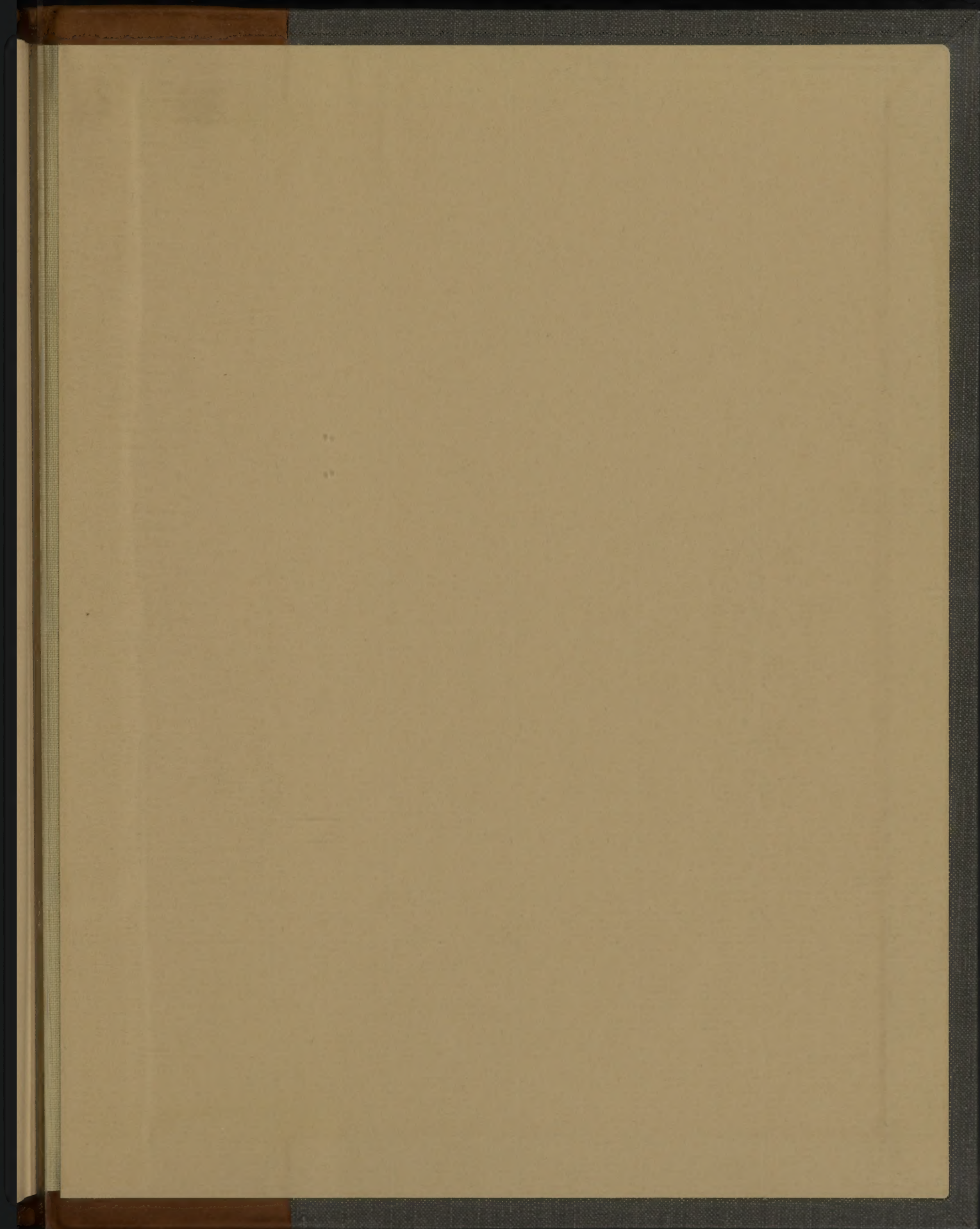




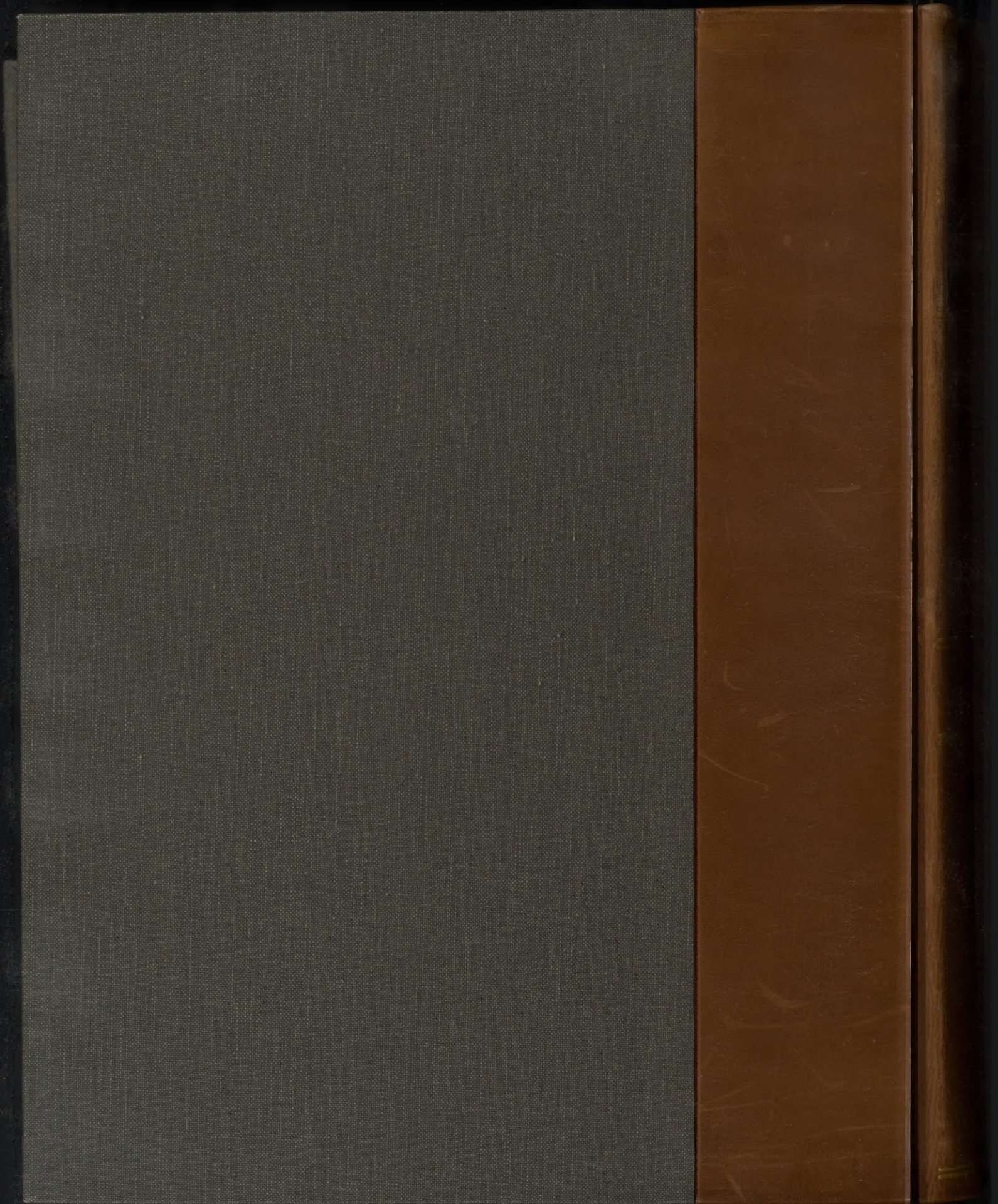


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REEVE &  
GOULDS  
LECTURES

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